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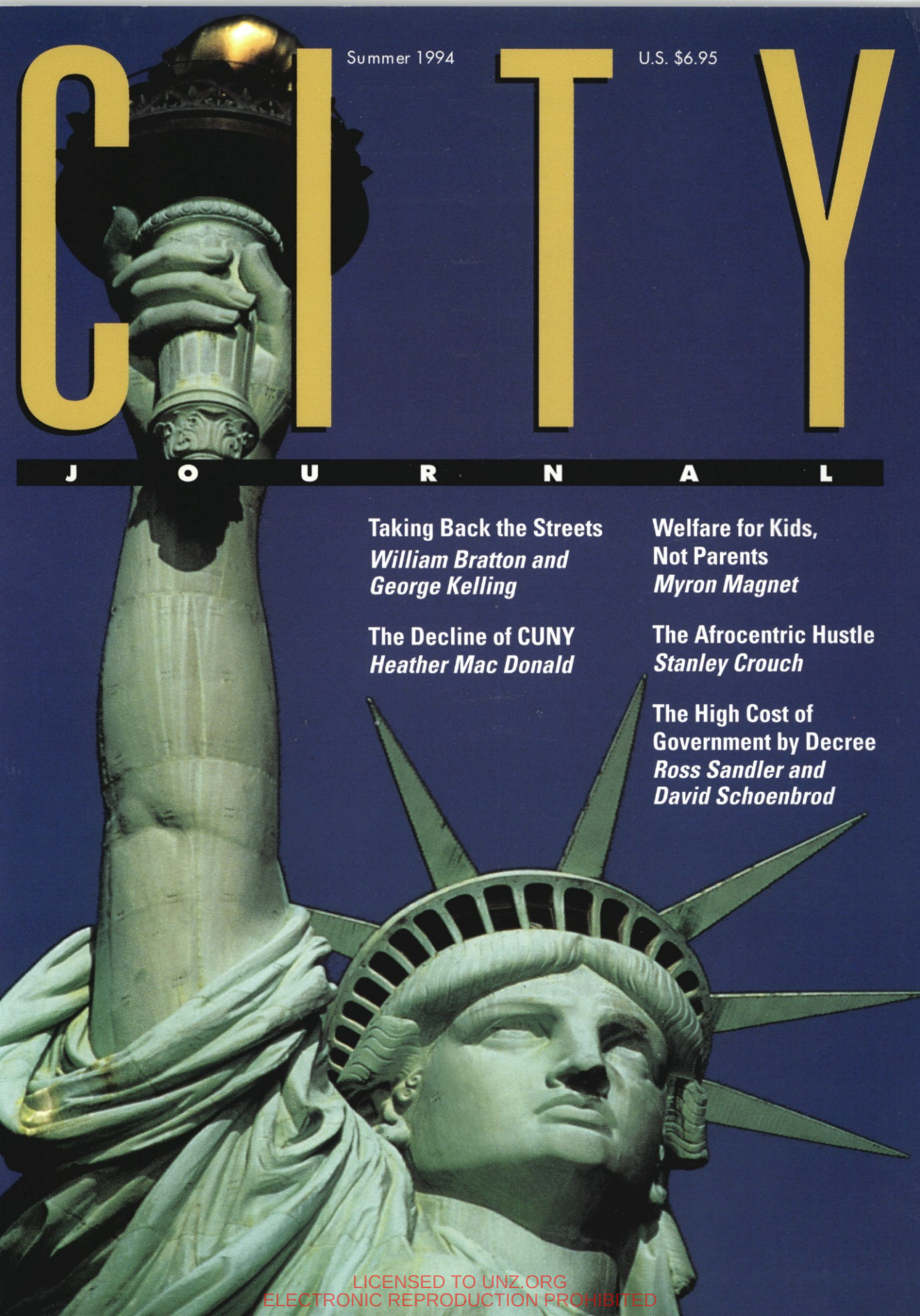

Taking Back the Streets
William Bratton and George Kelling

The Decline of CUNY
Heather Mac Donald

Welfare for Kids, Not Parents
Myron Magnet

The Afrocentric Hustle
Stanley Crouch

The High Cost of Government by Decree
Ross Sandler and David Schoenbrod

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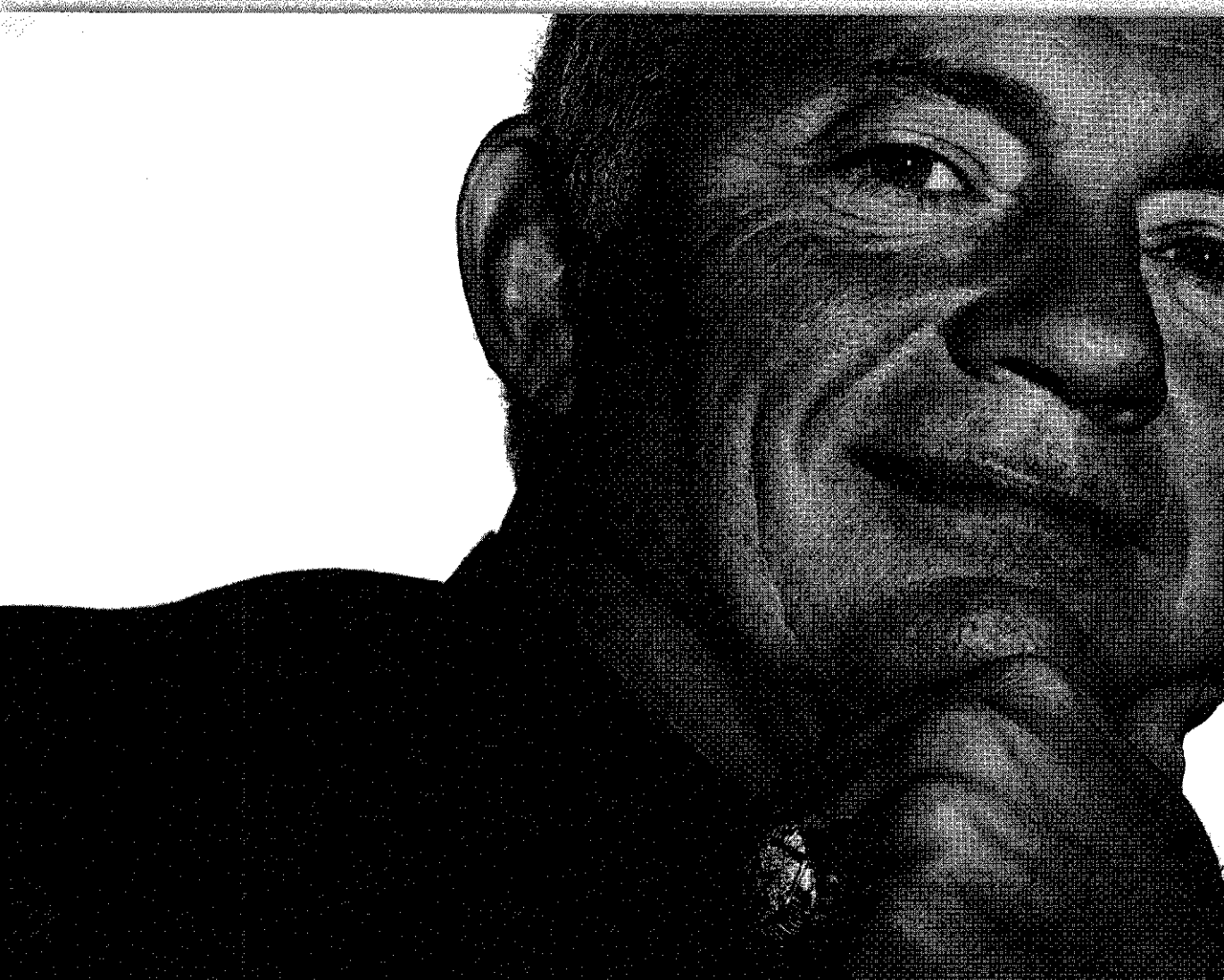

Ride 'em cowboy. Never mind that he was co-captain of the 1965 national championship University of Arkansas football team. Never mind that he made millions in the oil and gas business when others were getting out. Never mind that he risked every penny on a money losing NFL franchise. Never mind that he turned it into the world's most valuable sports property in just five years. Never mind that he owns two Super Bowl rings. He'd be the first to tell you. The only thing that matters is next season's 4th quarter results. **Jerry Jones started reading Forbes as an insurance salesman in 1967.**

Forbes

CAPITALIST TOOL®

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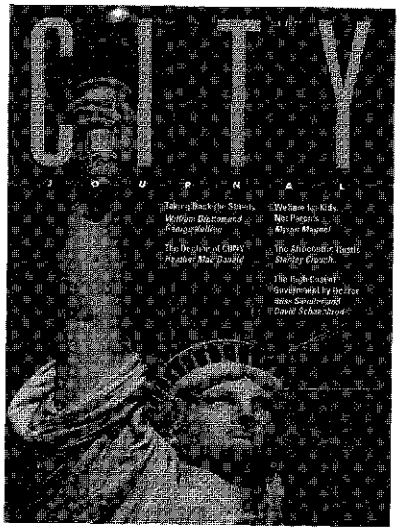
Sadly, public policy failures are often grounded in the best of intentions. Several articles in this issue of the *City Journal* treat notable instances of this phenomenon, all sharing prominent common features: an exaggerated faith in government's ability to solve deep-seated social problems, higher levels of government setting policies that lower levels must carry out, and policymakers' failure to appreciate the long-term costs of their decisions.

Heather Mac Donald, in "Downward Mobility," chronicles the unhappy consequences of the City University of New York's 24-year-old decision to open admissions to all city high school graduates while devoting vast sums to "remediate" students' deficiencies. This revolutionary policy, she contends, has debilitated and demoralized New York's once-proud public higher education system while producing precious few college graduates among its pool of underprepared candidates. In "Putting Children First," Myron Magnet argues that our present welfare system, with its eligibility rules strongly skewed in favor of single mothers, harms the very children it was designed to help. He suggests ideas for reform that might rescue youngsters from poverty and bad child-rearing even as they would discourage teen parenthood.

Ross Sandler and David Schoenbrod, in "Government by Decree," describe one of the most open-ended ways in which bad results flow from good intentions—when judges impose their own interpretation of the public welfare



on New York City—and suggest what might be done to restrain them. In "The Afrocentric Hustle," Stanley Crouch describes the historical and conceptual fallacies of Afrocentrism, whose advocates present it as a way of promoting tolerance and righting historical wrongs. Crouch warns of the harm the ideology may do to civil discourse as well as civil rights.

A boundless faith in the efficacy of government has led state and local agencies in New York to assume the private sector's traditional role in economic investment, as William Stern lays out in "State Capitalism, New York Style." He describes how various agencies have subsidized favored industries, promoted real estate deals, and even undertaken vast development projects, while largely ignoring New York's underlying economic troubles. And Charlotte Allen's article on the trials and tribulations of small landlords demonstrates the pernicious effects of government intrusion on the private housing market.

This issue also contains some good news about the positive effects when government acts smart and keeps its objectives and activities scaled to its capacities. George Kelling and William Bratton, in "Taking Back the Streets," express their optimism about community policing in New York, confident that the NYPD can overcome the key obstacles to its effectiveness. In "Setting Schools Free," Kathleen Sylvester gives us an overview of one of the more hopeful education experiments, the charter school movement. In another school reform story, Steve Weeks describes the stunning success against tough odds of Joe and Carol Reich's Beginning with Children School in Brooklyn. And in our "At Issue," Mayor John Norquist tells us how he was able to turn the government of Milwaukee around, enhancing his municipal agencies' productivity and responsiveness even as he cut their budgets.

All these articles illuminate the limits of government intervention in the functioning of society, especially in the intense and complicated cauldrons of our urban centers. While the economic organization and social tranquillity of civic life rest heavily on an infrastructure of government-funded and -regulated facilities and programs, the public sector's success depends on its reach not exceeding its grasp, and on its achieving a healthy symbiosis with the activities of the private sector.

—The Editors

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Defining Deviancy Up

In a 1993 article in *The American Scholar*, Senator Daniel Moynihan warned of the danger of "defining deviancy down." Society, he argued, has been progressively lowering its standards of what is regarded as acceptable behavior, leading ultimately to a "lunatic crime rate" that people have come to regard as "normal."

But there are signs that New York City is defining deviancy up, taking more seriously what have been regarded as "minor" transgressions against civility and public order. The police are cracking down on truant youths and "squeegee men." And the Transit Authority is running a successful ad campaign urging subway riders to donate to legitimate charities rather than give money to beggars. The latter is a particularly clear example of how times have changed: five years ago, Mayor Edward Koch was harshly criticized for suggesting that New Yorkers not give to panhandlers.

Mayor Rudolph Giuliani is helping change the tone of public discourse. "Freedom is not a concept in which people can do anything they want," he said in a March speech. "Freedom is about the willingness of every single human being to cede to lawful authority." Though civil libertarians were predictably outraged by the mayor's remarks, he explained that he was simply noting the need to strike a "balance between doing what you want to do . . . and submitting to authority."

Payback Time?

Fiscally strapped New York City may soon send $40.5 million to the Federal Government—but it doesn't have to.

Nor does the state—which would pay the other half of a proposed $81 million payback to the Federal Government for money received long ago to buy the right-of-way for Westway, a highway project that was scrapped in 1985. Westway was to be tunneled through landfill in the Hudson River between Battery Park City and 34th Street.

If the city and state agree to use the river and shoreline in ways that qualify under federal highway law, the Federal Government will grant a payback waiver. Among the uses allowed under a waiver are a new or existing roadway, bikeway, walkways, landscaping along the shoreline, and preserving scenic river views—in short, the major components of a riverside park. The city and state could also allow commercial development on some of the land, in exchange for a partial payback.

But a new public authority, the Hudson River Park Conservancy, is pushing the city and state to forgo the waiver and pay back the $81 million to the Federal Government. The conservancy, a subsidiary of the Urban Development Corporation, would have exclusive control over lease revenues from any development in the area and would not be directly accountable to voters or taxpayers. The Hudson River Park Conservancy proposes a complex scheme by which the $81 million would be recycled through the federal treasury and come back to the state Department of Transportation in ways that might ultimately benefit the city. And the UDC subsidiary says its lease revenues could help build a park a decade or more in the future.

Fiscal conservatives, environmentalists, and those who simply want to see a park on the river are lining up against what they see as a lose-lose proposition for the city. They propose, instead, that the city and state

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file for the waiver; use a portion of the payback savings, combined with possible additional federal grants, to build an affordable park right away; and keep decisions in the hands of elected representatives.

Public Housing: Who Speaks for Tenants?

When the ACLU filed a class-action lawsuit challenging weapons sweeps in Chicago's public housing projects, many tenants disagreed with the ACLU's argument that the sweeps violated their Fourth Amendment rights. The Central Advisory Council, an elected body consisting of the presidents of each of the tenant advisory councils at Chicago's 19 housing projects, voted 18 to 1 to support the sweeps. The council's members hired their own lawyers, who persuaded U.S. District Judge Wayne Anderson not to certify the lawsuit as a class action—telling the ACLU that it could represent only the four individual tenants who were its clients. It is extremely rare for a class-action lawsuit to be challenged by members of the class that those bringing the suit claim to represent.

"It really undercuts the moral authority of the ACLU," says Michael Pace, a lawyer with Jenner & Block, Chicago's largest law firm, which is representing the Central Advisory Council free of charge. "It's now clear that our clients have this clearly identifiable interest that's going to have to be recognized the next time the ACLU brings one of these suits." The council subsequently collected five thousand signatures from tenants on a petition supporting its stance.

Nonetheless, Judge Anderson ruled in April that, barring certain unspecified kinds of emergencies, the housing authority could no longer conduct warrantless sweeps. The council members have asked him to reconsider, and the housing authority is seeking federal funding to improve security. Meanwhile, the Clinton administration has proposed security guidelines for housing authorities across the country, including provisions for locking building entrances and lobbies, frisking suspicious-looking people, and including a clause in leases under which tenants would agree to warrantless searches under some circumstances.

A New Tax Revolt?

For the first time in nearly a decade, nearly half the state legislatures are focusing on tax cuts, not tax hikes. Two states—New Jersey and New Mexico—have already reduced personal income taxes and other levies, and 17 others have governor-proposed tax-lowering proposals on their legislative agendas. Only a small number of states, including Alaska, Hawaii, and Vermont, are considering tax increases, according to a survey produced by the Rockefeller Institute's Center for the Study of the States.

New Jersey's $285 million tax reduction—in the form of a 5 percent cut in personal income tax rates, an expanded low-income exemption, and an acceleration of a planned cut in the corporate income tax—represents the first stage of Governor Christine Todd Whitman's campaign proposal to reduce New Jersey's income tax rates by 30 percent over three years. New Mexico's $47 million package, also the first increment in a planned stage-by-stage reduction, includes lower income and gasoline taxes.

States typically raise taxes during recessions and trim them back when times get easier, as seems to be happening now. But the tax reductions also reflect growing middle-class frustration with the overall tax burden and fear in many states that businesses will pack up and leave for jurisdictions where the tax load is lighter. Even California, which remains mired in recession, is considering a $135 million tax cut that includes $50 million worth of incentives for businesses to create new jobs.

Most of the proposed tax cuts are relatively small, amounting to less than 1 percent of total revenue. It remains to be seen whether this trend will turn into anything like the late-1970s tax revolt, which cut state taxes by 3.6 percent nationwide.

Private Counsel

Mayor Giuliani is looking to other cities for advice on how to make privatization work. Indianapolis Mayor Stephen Goldsmith has flown to New York at least twice to discuss his techniques with Giuliani.

Goldsmith's main strategy is allowing private companies to bid competitively against city agencies for service contracts. Private firms now wash windows at municipal buildings, treat sewage, microfilm documents, and count coins from parking meters. This strategy has cut the number of non-police public employees in Indianapolis by nearly one-fourth, from 2,700 to 2,100. At the same time, Goldsmith has managed to avoid a state of war with his public employee unions. When he put street repair work out for public bids, he provided the city's own repair unit with a consultant who helped the municipal employees devise a labor-efficient system that resulted in their winning the contract.

Philadelphia follows a similar strategy, as Linda Morrison, former director of Mayor Edward Rendell's

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Competitive Contracting Committee, explained at a recent *City Journal* forum. "The managers and the unions sit on the same side of the table, and they bid against the private contractors to keep the work in-house," she said. "What happens at these meetings is truly miraculous. Seemingly insurmountable, long-standing obstacles . . . suddenly start flying out the window."

Strategies like these will be particularly important to Giuliani, who is likely to face strong resistance to his privatization efforts. The New York City Council voted 43 to 8 to hold hearings within 30 days on any privatization contract over $100,000. These hearings would give municipal labor unions a public forum to complain; Giuliani says they will deprive him of flexibility in labor negotiations. In June, the council overrode Giuliani's veto of the bill.

The Price of Success

The Job Training for the Homeless Demonstration Project is an unusual success in the world of federally supported programs to combat homelessness. Operating through twenty nonprofit community agencies in a dozen states, it has helped some eight thousand homeless. The clients have reported receiving personal kindness and attention from the staff, in contrast with the brusque and impersonal treatment they received from other government programs. A study of the program reported that the community agencies spent a modest $1,342 per person in training costs and that 34 percent of those who sought jobs through the community agencies found work—a low figure by ordinary standards but a high one for programs serving the homeless.

The Clinton administration likes the Jobs Training and Demonstration Project so well that it plans to copy its methods on a larger scale as part of a move to consolidate more than 150 separate federal employment and job-training programs. But the effect would be to put the successful program out of business, for the administration would subject the program to stringent regulations—restrictions that aim at limiting abuses and containing costs but will also hamper innovation and diminish the personal touch.

Jailhouse Law

During the 1960s, a series of U.S. Supreme Court rulings opened the way for inmates to bring civil-liberties suits in federal court alleging mistreatment or unlawful conditions in state prisons. Subsequent rulings guaranteed both state and federal inmates access to law libraries in order to prepare their cases.

Since most prisoners have a lot of time on their hands, a great many lawsuits have ensued. During the early 1960s, only a few hundred prisoners filed suit in federal courts every year. During 1993, there were more than 33,000 such suits—nearly one in six of all civil cases filed in federal court. (The size of the nation's prison population merely quadrupled during that time.)

Ninety-seven percent of these cases are dismissed before trial, and of those that continue further, only 13 percent result in favorable rulings for inmates, the lowest success rate for any kind of federal civil suit. The claims can be amazingly frivolous. Alfred Wyatt, serving time in New York for attempted robbery, alleges that a recent stay on Rikers Island was so traumatic that he started arguing with his fiancée, who left him; he wants $150,000 in damages. Kenneth Parker, a Nevada inmate sentenced to 15 years for robbery, filed a suit charging that the prison canteen sold him a jar of smooth peanut butter when he wanted chunky; he claimed $5,500 worth of emotional distress. Roy Cleninden, another New York state prisoner, wanted $1 million in compensation for an incident in which a guard let Cleninden's ice cream melt. (Parker and Cleninden's cases were both dismissed.)

State lawyers and court and corrections officials are trying to figure out a way to weed out frivolous charges while ensuring that prisoners can seek redress for legitimate claims. One possible solution is to set up a prefiling screening procedure for state inmates. The federal prisons already have such a system, in which prisoners must go through an administrative grievance process before they can sue. Another method, in use in northern New York's federal court district since 1985, is to require inmates to pay a small portion of their prison income as a filing fee; annual prisoner filings have fallen by almost a third since the court started the fee system.

Fighting Welfare Fraud

"Finger-imaging" is a form of fingerprinting that uses an electronic scanner instead of an inkpad. Local and state governments in New York State and elsewhere are considering finger-imaging welfare recipients in order to catch people collecting benefits in more than one jurisdiction. Cities and counties that have tried finger-imaging claim spectacular savings in welfare costs, while critics say there is no way to tell whether the reduced caseloads are actually due to scared-off welfare cheats.

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Two upstate New York counties, Rockland and Onondaga, electronically fingerprinted applicants for Home Relief, the state's welfare program for single adults without children. The state Department of Social Services noted a 15 percent drop in the rolls for both counties, saving $600,000 during 18 months. The department said finger-imaging could save $46 million a year if expanded statewide. Later, however, it emerged that the majority of the case closures were for reasons unrelated to finger-imaging. Critics also said there was no evidence that any of those who refused to be fingerprinted were actually double-dippers—though no one would be expected to apply for benefits in both counties, which are 250 miles apart. The state has expanded the program to include ten additional counties, but not New York City.

Los Angeles County, which instituted a fingerprinting program in 1991, says it saved $4.5 million during the first six months. And in New York, there is strong evidence that double-dipping is a real problem. In a March crackdown on fare-beaters on the PATH subway connecting Manhattan and New Jersey, officials caught 425 Newark residents carrying welfare cards for both New York and New Jersey.

Night Patrol

With juvenile crime on the increase across the nation, many localities are considering curfews to get teenagers off the streets late at night. Although curfews have often been overturned by the courts, proponents won an important federal appeals court ruling upholding Dallas's curfew ordinance against an ACLU challenge.

Atlanta, Phoenix, San Antonio, and Washington, D.C., are all considering teen curfews. Hawaii has a statewide law that keeps everyone under 16 indoors after 10 P.M. unless accompanied by a parent, and the Florida Legislature is also considering a statewide curfew. The cities of Tampa and Miami have already enacted curfews, and Orlando may follow suit.

Washington's Local Government Crisis

"America's Last Colony," the signs used to say that boosters of statehood for the District of Columbia erected on roads leading into the nation's capital. But the District is in such dire financial straits that it may have to borrow from the Federal Government to pay its bills—a move that would undoubtedly bring the District under the closest congressional supervision it has had to endure since it won limited home rule in 1974. The District already receives about one-fifth of its $3.4 billion annual budget from the Federal Government.

Burdened with a large welfare population, a practically nonexistent industrial base, high tax rates that encourage business flight, and a large amount of real estate that is exempt from property taxes because it is used by the government, embassies, and nonprofit corporations, the District has had trouble balancing its budgets since home rule began. Over the past three years, only a series of accounting maneuvers has enabled the District to stay in the black. If nothing is done, the District's budget deficit is expected to climb to $225 million by 1996 and to nearly $800 million by 2000. And if the U.S. Treasury has to bail the District out, Washingtonians can expect more federal oversight and even less home rule.

Garbage In, Garbage Out

Faced with environmental concerns and the rising cost of garbage disposal, municipalities are looking for ways to encourage recycling and reduce the amount of garbage their residents produce. Seattle pioneered the practice of charging by the bag for garbage collected. Households buy stickers to paste onto each garbage bag, and waste collectors only pick up bags bearing a sticker. But a study of "per-unit charges" indicates that bag fees are not as effective as they may appear.

Researchers Don Fullerton of Carnegie Mellon University and Thomas Kinnaman of the University of Virginia note that the households they studied tended to stuff significantly more trash into each bag, somewhat undercutting the pay-by-the-bag program's goal of cutting down the total amount of garbage. Fullerton and Kinnaman studied 75 households in Charlottesville, Virginia, both before and after the institution of an eighty-cent fee for every 32-gallon bag of garbage collected. They found that the average household reduced its volume of trash by 37 percent, but the *weight* of the garbage fell by only 14 percent.

Furthermore, the researchers estimated that illegal disposal accounted for more than one-quarter of the total reduction in household trash. Charlottesville residents slipped some of their garbage into dumpsters on the University of Virginia campus or behind commercial establishments downtown. Fullerton and Kinnaman predict even more dumpster-stuffing and illegal littering in a large, heterogeneous city such as New York.

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Downward Mobility

The Failure of Open Admissions at City University

Heather Mac Donald

Once a great New York institution, the City University system has been steadily declining since the 1960s. The reason: a tragically failed experiment that abandoned academic standards in hopes of promoting equality.

New York's City University system has a proud history of integrating the city's poor and immigrants into the middle and upper classes. Led by City College in Harlem, the best of its campuses were once premier academic institutions, whose degrees allowed their graduates to rise far above their social and economic origins. But in the late 1960s, the City University of New York began a long decline. Today, only about a quarter of its students graduate within eight years, and those who do often lack basic skills.

What happened to CUNY is an extreme manifestation of a nationwide trend in education over the last quarter-century. The idea of the university underwent a radical transformation in the 1960s. As unrest tore through American cities, higher education came to be seen as a means for defusing the nation's social and racial crises. It was no longer enough for a college merely to educate; universities were called on to enfranchise minority groups through admissions and curricular changes. Few universities were as profoundly affected by this shift in expectations as CUNY.

Though CUNY had launched the nation's first affirmative action program for minority students in 1966, both the university and the city continued to be rocked by racial disturbances. So in 1970, CUNY undertook to change its demographics on a far larger scale, through what came to be known as "open admissions." Buell Gallagher, president of City College, explained that if the university did not increase its intake of blacks and Puerto Ricans, the city would become "a balkanized collection of hostile groups held together only by a common sewer system." CUNY dismantled its entrance requirements; unprepared students would be admitted and given whatever remedial training they needed to participate in traditional college classes. In addition to providing a college education, in other words, CUNY's mission now included *preparing* students for college on an unprecedented scale.

CUNY's experiment in large-scale remedial education may now be declared a failure. Proponents of open admissions at the time insisted that the remedial students would be brought up to the level of the college's high standards. Instead, academic standards have dropped toward the

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Illustrations by William Cook

City College, Harlem

level of the new students. Just how low is underscored by a comparison with the State University of New York, where 56 percent of students graduate within six years—more than double CUNY's *eight*-year rate.

While open admissions affected CUNY's colleges differentially, all have been hurt. City College, having achieved the greatest prominence, had the greatest distance to fall—and fall it did, shattering its reputation as the "Harvard of the poor" almost overnight. Queens College, on the other hand, has by all accounts been most successful in maintaining its academic caliber, leading, predictably, to charges of "elitism."

There remain good students and good programs throughout the system, but it is harder and harder for those students to get the education they deserve, because CUNY's remedial functions are swallowing up all others. Like a compulsive gambler, CUNY continues to direct a disproportionate share of its resources to students with the least chance of success, while academically prepared students are largely left to fend for themselves. (The exception is CUNY's graduate programs, many of which remain of high caliber.)

CUNY is not the only university system that has taken on a significant remedial function. As of 1989, three-fourths of all colleges and universities nationwide offered at least one remedial course, and 30 percent of all freshmen needed some remediation. Few colleges, however, embarked on their remedial mission with quite the cataclysmic force that CUNY did, and few have carried that mission so far.

Striking Down Standards

CUNY's transformation began with a violent student strike in April 1969. The strike shut down City College for two weeks. The protesters charged CUNY with racism and elitism and demanded that it begin enrolling black and Puerto Rican students on a random basis until their representation on campus mirrored that of the city at large.

CUNY's central administration quickly capitulated to the spirit, if not the letter, of the strikers' demands. Admissions to CUNY's senior colleges had until then been based on a complex formula

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involving a student's high school average and class standing; the top colleges generally required a grade point average in the high eighties or low nineties (roughly a B-plus or better average). The seven community colleges were effectively open to all high school graduates, limiting enrollments only for programs in high demand.

The administration's concessions greatly eroded this two-tiered system. Starting in the fall 1970 semester, the senior colleges would take any student with an eighty average or from the top half of his class, and any remaining barriers to the community colleges would be removed.

Since a New York City high school diploma requires only a 75 average, and since many of the city's schools have a 60 percent dropout rate, graduating with an 80 average or from the top half of one's class hardly guarantees college preparedness or distinguishes one from the vast majority of high school graduates. CUNY would eventually require a top-third class standing, but by then, the city's schools had deteriorated even further, partly as a result of CUNY's relaxed admissions standards. The administration also promised to expand to 19,000 students the university's affirmative action program in the senior colleges, called SEEK (Search for Education, Elevation, and Knowledge), and to create separate ethnic studies departments. Moreover, students who consistently failed their courses would not be flunked out of school.

Professors found themselves facing students who had never read a book, some of whom had no experience with written language or standard English.

The new admissions policy had an immediate effect. Within months, City College alone created 105 sections of remedial English and hired 21 full-time faculty members to teach them. Whereas 70 percent of its English classes had been literature courses, now 70 percent were remedial. Nearly nine in ten City College students required remedial writing instruction. Professors found themselves facing students who had never read a book, some of whom had no experience with written language or standard English.

Open admissions cost $35.5 million in its first year alone; CUNY's budget shot up by 53 percent. Systemwide, 1,200 faculty members were hired to teach remedial courses. Counseling and tutoring suddenly became top priorities. The Board of Higher Education (predecessor to CUNY's Board of Trustees) created full departments of remedial education at three senior colleges; soon, every college would have them.

Yet the race to the bottom had only begun. When the new policies failed to bring in a satisfactory number of minorities, some senior colleges, motivated by the additional funding they received for admitting remedial students, petitioned for and won the right to enroll students from the bottom half of their high school class.

In May 1976, CUNY ran out of money and shut down for two weeks. It is impossible not to view this crisis as the indirect result of open admissions. As Paula Fichtner, chairman of the history department at CUNY's Brooklyn College, says, "CUNY never had the resources to meet the needs of the students it had inflicted itself with."

New York State eventually bailed the system out by agreeing to relieve the city of financial responsibility for CUNY's senior colleges. In exchange, CUNY would start charging tuition for the first time in its history. Yet CUNY did not thereby regain financial stability. Despite repeated tuition increases, CUNY has continued to be plagued with severe budget problems.

The introduction of tuition led to the final exodus of academically prepared middle-class students, who left for the State University of New York system or for private colleges. At the same time, top universities across the country were aggressively wooing minority students. The most competent of those students had little reason left to choose CUNY.

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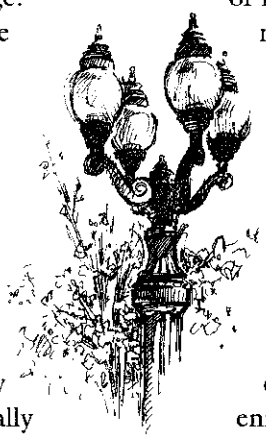
The Remediation Industry

To the extent that defenders of open admissions acknowledge any negative effects of the policy, they blame inadequate funding. "The big problem with open admissions was not that it brought in people who had lower grade point averages, but that the university didn't provide the remedial work they needed," says Arnie Birenbaum, a professor in City College's sociology department from 1967 to 1970 and member of Faculty for Action, a group set up to support the strikers' demands. With more money, Birenbaum and others claim, CUNY could successfully prepare its students for college.



Yet it is hard to imagine a more imposing structure than CUNY's remediation industry. At its center is the SEEK program, the opening wedge of open admissions. SEEK's founder, Julius C. C. Edelstein, formerly an aide to Mayor Robert F. Wagner and in 1966 CUNY's dean of urban affairs, pioneered the idea of placing underqualified students in colleges with high admissions requirements—a practice that quickly spread across the nation. SEEK actually *requires* extremely low grades or low class standing, in addition to economic disadvantage—poor but academically successful students need not apply. The program provided its beneficiaries with intensive counseling, remedial classes, and a living stipend, a benefit unknown in 1966.

The initial graduation rates of SEEK students—12 to 15 percent—ought to have set off warning bells. But instead of reconsidering SEEK's premises, CUNY steadily expanded it. Today, its resources dwarf those of traditional academic departments. At City College, the Department of Special Programs, which administers SEEK, has 29 full-time professors and lecturers, yet it offers only two classes: a course in study techniques, note-taking, and vocabulary; and a social science survey. By comparison, City's history department has 25 professors; political science, 10; and philosophy, 8. City's Special Programs Department has a budget of some $1 million for counseling and tutoring alone.

The disproportion between SEEK programs and traditional departments is repeated throughout CUNY. The Department of Educational Services at Brooklyn College has 39 faculty members; the history department, 25. As of fall 1993, Hunter's Academic Skills program had a director, 23 full-time faculty members, 3 adjuncts (part-time teachers), 19 counselors, and two people on leave. The average class size for Hunter's SEEK students is 14; regularly admitted students sit 45 to 50 a class.

Despite its own large resources and the growth of remedial technologies generally, SEEK has not managed to improve the graduation rate of its students, which remains at just under 13 percent after eight years. For African-American and Puerto Rican males in the SEEK program, the rates are 6.2 and 10.1 percent, respectively.

SEEK is just one part of CUNY's remediation problem, however. Nearly three out of four senior college freshmen and nine out of ten community college freshmen were enrolled in remedial classes in 1992. The bulk of remedial responsibility falls on English and math departments. In most math departments, high-school-level courses greatly outnumber college courses. Departments like physics, which don't offer remedial courses per se, have added an enormous amount of tutoring capacity. Many colleges have created separate departments of English as a Second Language to accommodate the growing number of students who come to CUNY with little or no experience in English.

In addition to remedial classes, open admissions has spawned a host of tutorial centers, staffed largely by part-time professors, and counseling and "guidance" centers, staffed by social workers. City College is replicating the SEEK model—in which disproportionate resources are directed at the students least likely to succeed—for remedial students outside the SEEK program. City's Student

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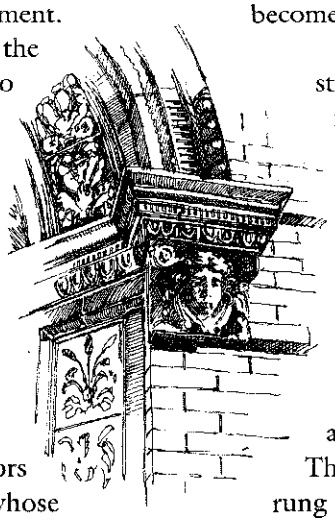
Support Service Program is a virtual SEEK clone catering to non-SEEK students enrolled in two or more remedial courses. It offers workshops in note-taking, test-taking, and study skills, as well as financial assistance, personal counseling, and "cultural enrichment" activities. It employs two administrators, four full-time counselors, one full-time "basic skills specialist," and seven tutors.

An additional layer of bureaucracy oversees these broader remedial functions. City's General Education and Guidance Division watches over remediation, tutoring, and counseling, in addition to general academic advising. It has its own dean and faculty.

Cycle of Failure

CUNY's remedial programs have little hope of success, because the university admits students who are so woefully ill-prepared. Rudi Gedamke, a professor in City College's Special Programs Department, says some of his students not only cannot read or write but also have difficulty with cause-and-effect reasoning. Their thinking, he says, is "primitive and associational"; they can't produce a sequential argument.

Gedamke is deeply committed to the idea that everyone deserves the chance to attend a liberal arts college. But he is rapidly losing hope. On exams, he sometimes asks students to put the paragraphs of a rearranged essay back in the proper order. Many students cannot even recognize that the essay is out of order. For some, he says, "there is no pedagogy available to solve their problems." It is "dishonest," he argues, to claim we can help them.



On the other hand, all professors have stories of remedial students whose lives were transformed by the opportunity to attend CUNY. On a visit to City College, I spoke with a 24-year-old freshman named Miguel Williams who had come back to school after realizing that "you can't just be getting by anymore." I attended Williams's remedial writing class, taught by a tragically incompetent literature professor who spent the class time in pointless and confusing digressions. Whereas most students simply sank into a sullen shell, Williams was bursting with frustration. "Teachers shouldn't dull your spirit," he said in the corridor after class. "I hope people wake up to the fact that they're being robbed out of an education."

Despite his bad luck with course placement, Williams stands a good chance of succeeding at City. Indeed, most professors say they can spot from day one the students in their classes who will succeed and those who won't. This is a judgment that CUNY as an institution is unwilling to make, however—to the detriment of all involved. Instead of concentrating on students who can be helped, CUNY creates ever lower levels of remediation for those who can't.

There are no F's in remedial courses, just R's for "Repeat." In theory, students are not allowed to advance beyond their sixtieth credit without passing the Skills Assessment Tests, which determine placement in remedial courses. In practice, this requirement is often waived. For many students, remediation becomes an endless cycle of failure.

The CUNY administration keeps no statistics on the extent of recidivism in remedial courses or the subsequent fate of remedial students—information that would be vital for a precise evaluation of CUNY's many remedial programs. At the College of Staten Island, which has a lower remedial burden than other CUNY campuses, approximately one-quarter of the students in remedial writing and reading fail their first time around. These students end up at the bottom rung of remediation, where all evidence points to the utter futility of further pedagogical effort. To justify their labors, professors in such classes embrace a therapeutic mission. "The focus [in lower remedial classes] is as much, if not more, on the reader as the reading," says Rose Ortez, developmental reading and writing coordinator at

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Graduation and Dropout Rates

An internal CUNY study, completed in 1989, tracked more than 26,000 students who enrolled in college in 1980 to determine how many had graduated or dropped out within five years. The university-wide graduation rate was 21.9 percent, the dropout rate, 64 percent. Here are the totals for individual campuses:

SENIOR COLLEGES	GRADUATION RATE	DROPOUT RATE
Baruch	23%	56%
Brooklyn	25%	59%
City	15%	58%
Hunter	15%	61%
John Jay	13%	69%
Lehman	13%	67%
New York City Tech	22%	70%
Queens	32%	51%
Staten Island	18%	70%
York	8%	73%

COMMUNITY COLLEGES	GRADUATION RATE	DROPOUT RATE
Bronx	13%	74%
Medgar Evers	20%	67%
Hostos	16%	76%
Kingsborough	32%	61%
LaGuardia	28%	65%
Manhattan	16%	74%
Queensborough	26%	64%

Staten Island. The objective, she explains, is to "become a more self-aware reader."

The remedial system at CUNY is not only open-ended; it is also extremely porous. The original notion that students without college skills would remain in an antechamber to the college until they were adequately prepared quickly collapsed under a variety of pressures. Keeping remedial students out of regular courses is decried as "stigmatizing"; professors in undersubscribed upper level courses complain that the remedial teachers hold students back. Now, students who lack reading and writing skills are usually allowed to take regular courses at the same time as remedial ones.

As a result, the distinctions between remedial and regular classes have blurred. Rudi Gedamke routinely finds that students to whom he has given C's and D's in his college skills classes make A's in their regular courses. The following short essay—reprinted here verbatim—received an A in City's English 110, a *nonremedial* course. (It answers the question: "What advice would you give Charles about memorizing data and passing tests?")

> I would tell Charles to read and then don't just stop and go do some thing else but to rectie and don't lay in you bed and say you are studying but to move up and down and rectie.
>
> I would also tell him to do overlearning because the more you overlearn something you will be able to remembrance on a test. he can also use scheme that could help you to remembrance a lot more.

Student writing has become so bad that it defeats the impulse to improve it. Al Fiellin, a former dean of City's General Education and Guidance Division, discovered that remedial writing students were losing through disuse whatever skills they had acquired in remediation. So he tried to introduce a very modest writing requirement into all core curriculum courses. He met with widespread faculty resistance. The typical response to his proposal was: "I have too many students who can't write well enough for me to help." Short-answer and multiple choice tests have become the preferred evaluation method, so that faculty members can avoid having to read student papers.

The costs of CUNY's remedial enterprise are literally incalculable. According to Arthur Cohen, director of a clearinghouse for community colleges at the University of California, Los Angeles, no one anywhere knows what is spent on remediation: "You can always move the figures up or down." CUNY's central administration claims that the faculty cost of remediation is $17 million at the senior colleges, or 2 percent of their 1993-94 budget, and $20 million at the community colleges, or 6 percent of their 1993-94 budget. Yet SEEK alone spent almost $14.3 million during the same period—and SEEK serves just 10.6 percent of the senior college population, or 14 percent of those needing remediation.

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Even if the administration's figures for faculty costs of remediation are correct, they are just the tip of the remediation iceberg. Underneath them lie the enormous administrative costs of the remedial bureaucracy, the large expense of giving and grading placement tests that many students must take repeatedly, and the personnel and overhead costs of CUNY's numerous counseling and tutorial centers. In 1993-94, the senior colleges spent nearly $5.4 million on "freshman year programs" alone—sundry counseling, tutoring, and nonteaching activities—to try to reduce the one-third dropout rate of first-year students.

While CUNY pours money into remediation, the rest of the university is being decimated by budget cuts. Students are unable to graduate because the courses they need are oversubscribed. The number of professors has been cut by 17 percent in recent years. Half of all courses are taught by adjuncts, who have few ties to the institution and sometimes fewer qualifications. In the spring 1994 semester, an adjunct teaching introductory political science at City College had herself graduated from the college just the previous year. Library budgets have been sharply cut, forcing the curtailment of hours and acquisitions.

Though most professors say they can spot from day one the students who will succeed, this is a judgment that CUNY as an institution is unwilling to make.

Human Costs

The costs of CUNY's vast remedial enterprise go far beyond money. Howard Adelson, a professor of history at City College and one of the few faculty members who were willing to publicly oppose open admissions in 1969, says, "The great thing about City was not that the faculty were so wonderful, but that the students taught each other. That was destroyed almost immediately." Even Arnie Birenbaum, the former member of Faculty for Action, concedes that "as soon as you relax standards, you lose the core of dedicated students who set the standard and who make the school."

Nor is the remedial enterprise necessarily in the best interests of its intended beneficiaries. Though the policy of giving everyone an unlimited number of chances appears benign, in fact it wears students down by misleading them about their ultimate chance of success. According to several professors, there is an enormous amount of depression among persistent remedial students.

The failure of remediation has had a profound effect on the classroom. While some professors continue to teach to the best students in each class, others turn each class into an introductory course. The standard hierarchy of coursework has also been upset. "We offer courses of traditionally extreme difficulty without prerequisites because we have to fill them, so we teach differently," says Abigail Rosenthal, a professor of philosophy at Brooklyn College. "The whole situation is skewed by the fact that students are unprepared." Rosenthal says most of her energy goes into "strategizing" how to teach advanced material to unprepared students.

Professors who believe in maintaining academic standards acknowledge that they are powerless to do so. "You can't flunk the entire class," laments Felicia Bonaparte, a professor of English at City College and the Graduate Center. Gedamke says he can't give tests from only ten years ago because 70 percent of the class, instead of "just" 50 percent, would fail.

The decline of standards has led to a corresponding decline of institutional prestige. According to trustee Herman Badillo, the value of a CUNY degree to employers has plummeted since 1970.

The most visible effect of open admissions, however, lies in CUNY's dropout and graduation rates. Eight years after entry, only 25 percent of CUNY's

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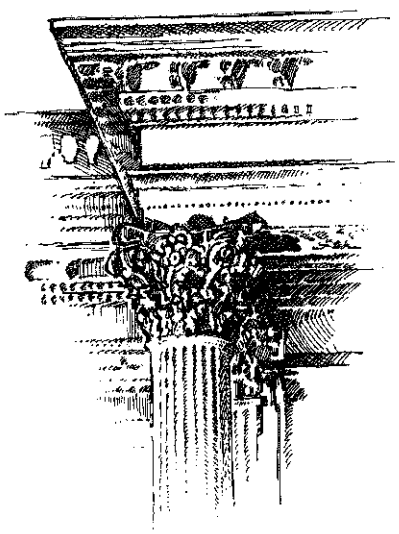
undergraduates have completed their degree; all but a fraction of the rest have dropped out.

Incentives to Fail

Despite the evidence that it is not educating the students it already has, CUNY's administration is seeking to increase enrollment by 2 percent. This unrelenting push to increase enrollment cannot be explained solely by the university's commitment to "access," today's codeword for open admissions. CUNY's admissions policies are now driven as much by financial as by ideological pressures—though the two reinforce each other. "Ideology provides conscience with a justification for the bottom line," says George McKenna, former chairman of City College's political science department. "It is convenient to believe that every single person can graduate from college."



CUNY is financed by the state on the basis of the number of full-time students it enrolls. If a college has a lower enrollment in the fall, it will be docked in the spring. "The game becomes filling classes at any cost," explains Barry Gross, a professor of philosophy at York College. "Most students drop out in five weeks, but by then, the state audit has been done." Bruce Newling, a former professor of geography at City College, compares CUNY's enrollment policies to a broker churning stock: "If the students flunk out, the administration just brings more in." (In 1992, the chairman of the economics department, under which geography courses are taught, prohibited Newling from teaching introductory geography when he refused to remove elementary math—necessary to calculate latitude and longitude—from the course.)

CUNY's reliance on tuition for one-third of its budget creates an additional incentive to increase the number of students, ready for college or not. And the faculty union presses for increased enrollments so that its own membership will grow, according to Stuart Prall, executive officer of history at the Graduate Center and former history chairman at Queens College. Younger professors, he says, "would rather teach dumb students than none at all."

The administration touts its College Preparatory Initiative (CPI) as proof that it is serious about improving the caliber of students it accepts. The initiative, promulgated by Chancellor W. Ann Reynolds, sets a seven-year timetable for increasing the number of academic courses CUNY would require an applicant to take in high school, with the intention of ensuring that students start college ready to do college work. Currently, a student's high school average may be based on nonacademic courses like "consumer math," which teaches such skills as balancing a checkbook. Only 19 percent of New York City's high school graduates receive the traditional regent's diploma, signifying that the student has passed an array of college preparatory courses.

But the College Preparatory Initiative has a fatal flaw: it is not mandatory. If a student hasn't taken the "required" college preparatory courses before applying, CUNY will accept him anyway and ask him to make up the courses in college, usually for college credit. Other provisions water the initiative down further. Students with a General Equivalency Diploma (a less rigorous alternative to a high school diploma), older students, foreign students, and disabled students are all exempted. And if CUNY determines that the initiative is having a "significant negative impact" on the number of applicants, it will extend the timetable for implementing it beyond seven years.

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The New Pedagogy

While the administration makes hollow gestures in the direction of improving academic standards, far more powerful forces are at work within the university that would deliver those standards' death blow. CUNY is at the cutting edge of a nationwide movement to do away with the very distinction between academic proficiency and deficiency and replace it with the concept of competence in one's own culture. A new generation of writing teachers, forcefully represented in CUNY's English and SEEK departments, is arguing that "deficiency" and "remediation" are mere "social constructs" designed to marginalize unwanted groups of people. All students have strong linguistic power, they claim, which can be destroyed (along with self-esteem) by a teacher's excessive concern about grammatical errors and spelling. Teachers are admonished to evaluate student writing "holistically," instead of "overcorrecting" the prose.

CUNY is at the cutting edge of a nationwide movement to do away with the very distinction between academic proficiency and deficiency.

Geraldine de Luca, director of freshman English at Brooklyn College, encapsulates the spirit of the movement. She criticizes society's "collective assumption that there are 'basic skills' which students must master before they do anything else." She adds: "Even the concept of 'error' is beginning to feel repugnant to me."

The new pedagogy promotes a "nonhierarchical," "collaborative," and "nonjudgmental" classroom. It also demands an almost constant reshuffling of chairs. Students are forever rearranging themselves into small groups to read and comment on each other's writing, while the instructor benignly surveys the scene. While the occasional small student group in the composition classes I visited at City College did indeed spend the allotted time discussing its members' writing, most of the groups quickly turned their attention to more compelling matters, such as the newest sneakers or last weekend's parties. One group spent its time exchanging photographs. And no wonder. The writing they are supposed to analyze—each other's—is usually disjointed, illogical, and inarticulate. To ask students to come up with "two positive things to say" about each excerpt often is to ask the impossible. It is also wholly counterproductive. Making students' abysmal prose the main object of study violates the basic truth that one learns to write by reading *good* writing.

The most significant attack on the distinction between remedial and regular education comes from the movement advocating full college credit for all remedial courses. (Currently, remedial courses earn either no, partial, or full credit, depending on their difficulty.) A recent study by the Latino Urban Policy Initiative, a nonteaching research institute at CUNY's Lehman College, found that eight years after college entry, 78 percent of African-American and 79 percent of Puerto Rican students have dropped out without a degree. The initiative's director, Joseph Pereira, argues that by not offering full college credit for remediation, CUNY ensures that minority students will fail to make significant progress toward their college degree, eventually giving up. "If someone can take Spanish or French for credit," Pereira asks, "why shouldn't they earn credit for remedial English?"

At City College, another effort to erase the distinction between regular and remedial courses is under way. Its composition department has created a new freshman course that mixes students who failed CUNY's writing placement exam with those who passed—rendering the exam completely superfluous. Acting Provost Mike Aarons says the idea behind the program, which is being replicated in other areas of the college, is that "the more successful students help the less successful." But aren't the best students in college for their own education, rather than for somebody else's?

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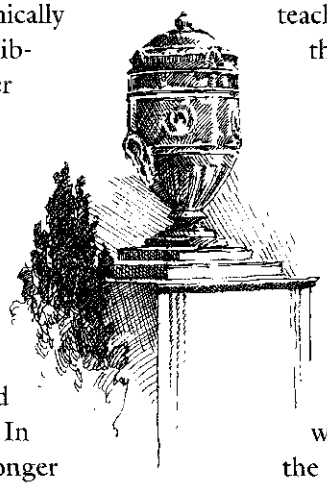
Such "reforms" as "holistic" language teaching and full-credit remedial courses ultimately do minority students a great disservice. While their professors may be willing to evaluate their writing on the basis of "creativity" and "sense of humor" rather than according to "mere" rules, employers are unlikely to be so empathetic. Many professors tell of former students who failed job interviews because their résumés contained so many spelling errors. Mary Soliday, a professor in City's composition program, is unconcerned by this problem, for soon, she says, *no one* will be able to spell or use grammar properly. "I used to worry about the 'real world' more than I do now," she says, "because now I see errors everywhere."

Beyond Remediation

It is long since past time that CUNY abandon its experiment in large-scale remediation. The promise that the senior colleges could bring large numbers of deficient students up to par while preserving standards for everyone else has proven hollow.

CUNY should return to the traditional division of functions between community and senior colleges, reserving the latter for academically qualified students who seek a rigorous liberal arts education, and using the former both as a testing ground for less prepared students and as a place to impart technical skills. Stanley Koplik, chancellor of higher education in Massachusetts, argues that "to recruit to state universities students appropriate for community college is not a wise use of resources," because community colleges respond better to students with remedial needs. In Florida, remedial courses are no longer taught at four-year colleges. Critics of open admissions also question the wisdom of paying college salaries to teachers who are essentially teaching high school courses.



Nationwide, 45 percent of college students are in community colleges, 40 percent in state universities. The University of California system takes only the top one-eighth of the state's high school students and graduates approximately 70 percent of its freshmen after eight years. At CUNY, by contrast, nearly two-thirds of undergraduates are in the senior colleges, and the dropout rate is astronomical. CUNY could cut its size by half, argues Peter Gutmann, professor of economics and finance at Baruch College, and affect the actual number of students graduating by 10 percent or less. And there is reason to hope CUNY could improve its academic standing: several professors spoke of an improvement in the caliber of the best students over the last five years.

Any effort to shrink the university and raise standards will provoke all the arguments that destroyed those standards originally. But the experience of the last 25 years discredits most of them. John Mollenkopf, professor of political science at the Graduate Center, maintains that as a public university, "it is not at all clear that CUNY should be in the game of selecting students." It is even less clear, however, that taxpayers would knowingly support a university that devotes considerable resources to teaching high school courses repeatedly to the same students and graduates only one-third of its entrants over eight years.

The democratic argument for open admissions is often buttressed by a sentimental argument. Julius C. C. Edelstein rejects any attempt to balance the benefits and costs of open admissions: "Who," he asks, "can place a dollar value on the late bloomers who do graduate?" The answer seems obvious: the taxpayers who must also pay the mounting bills for the far greater number of students who don't graduate. And those few late bloomers whom Edelstein understandably prizes are ill-served by a university whose standards are so low that its degrees have lost their prestige.

Edelstein and other defenders of open admissions argue that even students who drop out of CUNY

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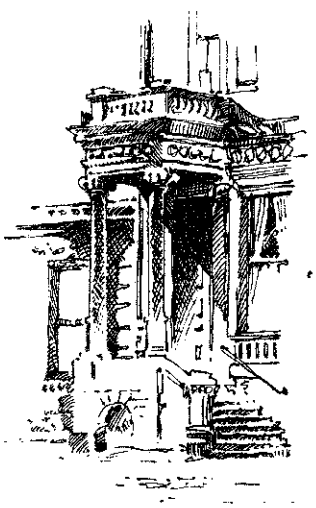
receive an invaluable benefit from having attended the school, however briefly. In an age as obsessed with "self-esteem" as ours, this argument is anomalous. Surely dropping out of college leaves a scar of failure; a student would benefit more if he graduated from a community college or vocational school.

The argument for open admissions that seemed the most compelling at the end of the 1960s—racial justice—is today the least persuasive. CUNY is no longer majority-white. In 1992, blacks, Hispanics, and Asians constituted 63.1 percent and whites 36.9 percent of the total enrollment. Because of demographic change, argues Paula Fichtner of Brooklyn College, CUNY could go back to being an elite institution and still maintain its ethnic diversity. The SEEK program should be disbanded entirely. In the face of the radical shift in CUNY's demographics, there is not a single reason for continuing to recruit into the senior colleges seriously underprepared minority students who require the most remediation.



The racial justice argument for open admissions fades imperceptibly into racial extortion, otherwise known as "keeping the peace." Richard Wade, a historian at the Graduate Center who has no experience teaching remedial students, calls open admissions the "linchpin of the city." "If we didn't have a university that will take care of people, what will they do?" he asks. "I wouldn't want to be here if there was no CUNY—we'd have to build a lot more jails." Surely keeping potential criminals off the streets is one of the saddest justifications for higher education imaginable.

To answer Wade's question—"What will they do?"—one might return to an idea that was considered during the original debate over open admissions. As described by Steve Goldberg, chairman of City College's sociology department: "One group at the time thought: 'What black kids want is to get out of the ghetto, so we should figure out what they are qualified for. If that turns out to be air-conditioning school, we should give them that opportunity.'" But the left derided this idea as "tracking," and it was buried ignominiously.

There is a great demand at CUNY for practical programs in fields like health care. But the university is continually forced to cut them back because of its budget problems. If it were to direct its resources more rationally, it could adequately fund the programs that help people climb up the economic ladder.

The ideal of a universal liberal arts education has become even more elusive of late. In addition to the damage CUNY inflicted on itself with open admissions, it is also rapidly dismantling its liberal arts tradition with its enthusiastic embrace of multiculturalism. At a recent CUNY-sponsored conference on diversity in urban schools, Vice Chancellor for Academic Affairs Richard M. Freeland told the audience that "it is obviously no longer possible to think of America as a nation with a mainstream culture to which other cultures feed in." The march toward racial and ethnic separatism that began with the creation of ethnic studies programs in the 1960s continues today as CUNY funds countless initiatives and institutes on diversity and multiculturalism. Better, then, an honest vocational approach to learning than political posturing in the guise of liberal arts.

Over the last thirty years, American education has devoted considerable energy to coming up with things other than education that it might be good at. Putting higher education into the service of racial peacekeeping was one of the most fateful of those experiments. At CUNY, it destroyed an academic tradition that was elite only in its results, and led to the creation of a vast remedial industry, without, sadly, even having averted the balkanization that Buell Gallagher warned against. CUNY should rededicate itself to providing a top-notch college education to poor and working-class students who are prepared to benefit from it. ■

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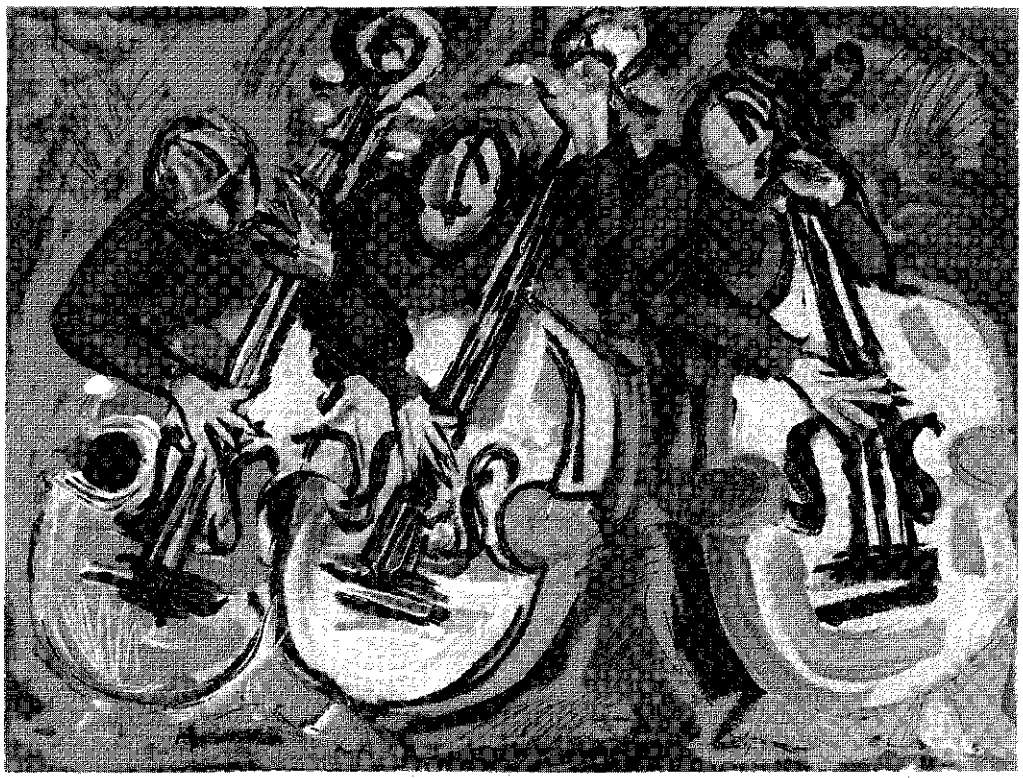
The Afrocentric Hustle

Stanley Crouch

Advocates of Afrocentrism play on guilt and resentment to promote a dangerous and intellectually corrupt ideology.

Our democracy is founded in tragic optimism, an acceptance of human frailty that is not defeatist. Like the blues singer, our American job is to address the universal limitations of life and the foibles of human character while asserting a lyrical but unsentimental high-mindedness. Like the doctor, our democracy must face the unavoidable varieties of disease, decay, and death, yet maintain commitment to birth, to health, to the infinite possibilities and freedoms that can result from successful research and experimentation.

It is, therefore, our democratic duty to cast a cold eye on the life of our policies. We have to weed out corruption whenever we encounter it and redeem ourselves from bad or naive policy, either by making fresh experiments or by returning to things that once worked but were set aside for new approaches that promised to do the job better. If we don't accept these democratic duties, we will continue to allow intellectual con artists and quacks to raise their tents and hang their shingles on our campuses.



Verna Hart
Bass Walkin'

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The emergence of Afrocentrism has revealed a continuing crisis in the intellectual assessment of race, history, and culture in our nation. It is another example of how quickly we will submit to visions that are at odds with the heroic imperative of uniting our society. Quite obviously, when it comes to skin tone and complaint, we remain ever gullible, willing to sponsor almost any set of conceptions that makes fresh accusations against our society. In that sense, Afrocentrism is also a commentary on the infinite career possibilities of our time. Just as almost anything can be sold as art, almost any idea capable of finding a constituency can make its way onto our campuses and into our discussions of policy.

In the interest of doing penance, we will accept a shaky system of thought if it makes use of the linguistic pressure points that allow us to experience the sado-masochistic rituals we accept in place of the hard study and responsible precision that should be brought to the continuing assessment of new claims and new ideas. Our desperate good will pushes us to pretend that these flagellation rituals have something to do with facing the facts about injustice in our country and in the history of the world. The refusal to accept the tragic fundamentals of human life has led to our bending before a politics of blame in which all evil can be traced to the devil's address, which is, in some way, the address of the privileged and the successful. We have borrowed from the realm of therapy the idea that our parents are to blame for our problems, and projected it onto the larger society, absolving the so-called oppressed from responsibility for their actions. We don't understand—as did the geniuses who shaped the Constitution—that we must always be so cynical about new ways of abusing power that we remain ever wary of intellectual and political pollution.

Albert Alexander Smith
Portrait of Arthur A. Schomburg

As a movement, Afrocentrism is another of the clever but essentially simple-minded hustles that have come about over the last 25 years, promoted by what was once called "the professional Negro"—a person whose "identity" and "struggle" constituted a commodity. James Baldwin was a master of the genre, as a writer, public speaker, and television guest, but he arrived before his brand of engagement by harangue was institutionalized. Now, as for most specious American ideas claiming to "get the story straight," the best market for this commodity is our universities, where it sells like pancakes, buttered by the naive indignation of students and sweetened by gushes of pitying or self-pitying syrup.

Though at its core Afrocentrism has little intellectual substance, it has benefited from the overall decline of faith that has caused intellectuals to fumble the heroic demands of our time. The discontinuity of ideals and actions and the long list of atrocities committed in the name of God and country have convinced many Western intellectuals that the only sensible postures are those of the defeatist and the cynic. Like the tenured Marxist, the Afrocentrist will use the contradiction to define the whole; he or she asserts that Western civilization, for all its pretty ideas, is no more than the work of imperialists and racists who seek an invincible order of geopolitical domination, inextricably connected to profit and exploitation of white over black. The ideals of Western democracies that have struggled to push their policies closer to the universal humanism of the Enlightenment are scoffed at. Where the Marxist looks forward to a sentimental paradise of workers uber alles, the Afrocentrist speaks of a paradise lost and the possibility of a paradise regained—if only black people will rediscover the essentials of their African identity.

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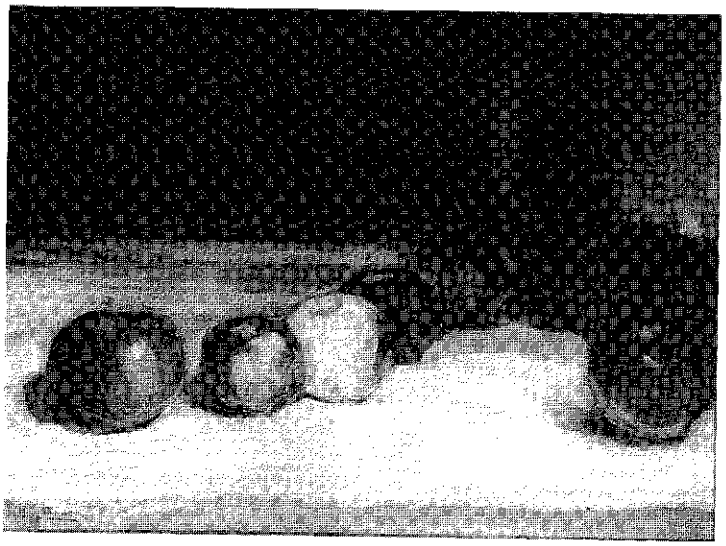
For all its pretensions to expanding our vision, the Afrocentrist movement is not propelled by a desire to bring about any significant enrichment of our American culture. What Afrocentrists almost always want is power—the power to be the final arbiter of historical truth, no matter how flimsy their case might be. Like most conspiracy theorists, Afrocentrists accept only their own sources of argument and "proof"; all else is defined as either willfully flawed or brought to debate solely to maintain a vision of history and ideas in which Europe is preeminent. Thus, the worst insult is that critics are "Eurocentric." Further, when charged with shoddy scholarship, the Afrocentrist retorts that his purportedly revolutionary work uses means of research and assessment outside "European methodology."

However superficial that defense might seem, an important tradition in our country's history makes it seem at least plausible at first glance. Americans have, from the sciences to the arts, as often as not had to invent the forms that allowed for the purest expressions of our political imagination, national sensibility, and multiethnic history. The Gettysburg Address, the Second Inaugural of March 1865, the electric light, the phonograph, the motion picture camera, the grammar of film, and the improvisational riches of jazz are the creations of homegrown geniuses such as Lincoln, Edison, Griffith, and Armstrong, who made it abundantly clear that the academy isn't the only path to grand accomplishment.

Jazz is one of the most important examples of this. It is a perfectly democratic music that reached its peaks outside of "European methodology." It has both intuitive geniuses like Louis Armstrong and Billie Holiday and unarguable intellectuals like Duke Ellington and Dizzy Gillespie. Both were rejected by the academy once upon a twentieth-century time. Those with a simple explanation attribute it all to race, which can by no means be left out of the discussion. But we must remember that white jazz musicians were not embraced either, no matter how popular, and that most major aesthetic movements of this century were controversial worldwide. In short, the academic and critical resistance met by jazz musicians was also met by Picasso, Joyce, and Stravinsky.

Jazz musicians weren't initially accepted in academic circles because, though they could hear harmonic structures perfectly, the intuitives didn't use theoretical terminology. The intellectuals could, but it took both to make jazz. The intuitives and the intellectuals had one thing in common, however—the ability to achieve objective aesthetic logic. That is why the music grew with such speed and drew depth and breadth from every kind of talent.

So when Afrocentrists defend low-quality work with assertions about the limitations of "European methodology," they are drawing upon the American tradition of achievements in political thought, technology, cinema, and jazz that were developed outside the academy to defend themselves. They ignore, however, the objective quality



Henry Ossawa Tanner
Still Life with Fruit

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Romare Bearden
Easter Procession

of those achievements. As Gerald Early points out, Afrocentrists have bootlegged the deconstructionist idea that there is no such thing as objective value; a thing's "value" is merely the reflection of a cultural consensus.

Afrocentrists also reject education as "Eurocentric indoctrination." They maintain that Western history as written is an unrelenting cultural war that aims to justify and maintain the subjugation of African peoples, and, when literal subjugation is not the goal, to impose upon them a self-hating idolatry of all that is European or European-derived. Afrocentrism, then, presents itself as ethnic liberation, a circling of the wagons within the academy, a bringing down of Eurocentric authority by black intellectual rebellion.

At the same time, Afrocentrists—like those who promote other protest versions of study—want the respect given to traditional disciplines without having to measure up to the standards of traditional research. Though ever scoffing at the academy, they want the prestige and the benefits that come of being there. Thus, Afrocentrism is the career path of a purported radical who seeks tenure. Its proponents justify this on the grounds that the campaign is at least partially one of evangelizing black people about their African heritage. What better battlegrounds than the campuses of tenuring institutions?

A central tenet of Afrocentrism is that Egypt was black and that Greco-Roman civilization was the result of its influence. The foundation of Western civilization, therefore, is African. This is a relatively sophisticated version of Elijah Muhammad's Yacub myth in which the white man is invented by a mad black scientist determined to destroy the world through an innately evil creature. Why this obsession with Egypt being African and black? Firstly, monuments. There is no significant African architecture capable of rivaling the grand wonders of the world, European or not. Secondly, Africa has no body of thought comparable to that upon which Western civilization has developed its morality, governmental structures, technology, economic systems, and its literary, dramatic, plastic, and musical arts. None of these facts bespeaks an innate black inferiority, but they were used to justify the barbaric treatment of subject peoples by colonial powers waging ruthless campaigns for chattel labor and natural resources.

In fact, the Afrocentrist argument is not with the Western tradition of inquiry, not with the democratic belief that greatness can arise from any point on the social spectrum, and not with the ideas of the Enlightenment that led to the abolition of slavery. Afrocentrism is a debate with the colonial vision of non-Europeans as inferior that has long been under attack from within Western democracies themselves. The Afrocentrist arguments, which are rooted in

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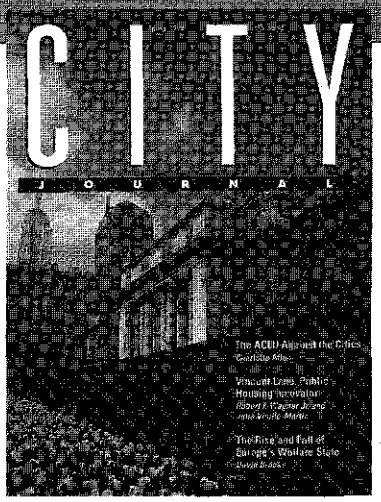
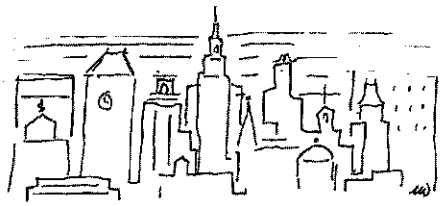


and celebrates the richness, diversity, and excitement of the city.



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nationalism, pluralism, and cultural relativity, have their origins in the Western tradition of critical discourse. Afrocentrism is absolutely Western, despite the name changes and African costumes of its advocates.

Afrocentrism benefits from the obsession with "authenticity" of this mongrel nation of ours. More than a few of us yearn for an aristocratic pedigree. If family won't do, then we might snatch the unwieldy crown of race to distinguish ourselves. This has been the appeal of both the Ku Klux Klan and the Nation of Islam. Membership allows one to rise from the bottom and suddenly become part of an elite. Poor "white trash" become "real" white men when performing violent acts in defense of "white civilization." Negro criminals, embracing a distorted version of Islam, come to understand that the white man is "the devil" and that the black race is the original parent of humankind. College students swallow Afrocentrism and conclude that all their problems are the result of not possessing an "African-centered" worldview.

These are also responses to humiliation. That humiliation is the source of the hysteria that gives such a terrible aspect to the desire to be done with all niceties, to utterly destroy the structure that has engendered the feeling of inferiority or of helplessly being had from the first encounter up to the present. Such response is an expression of having taken the insults of the opposition too seriously, a retreat from engagement, a dismissal of complexity in favor of the home team, a racial isolationist policy.

To justify the myopic vision that emerges requires a list of atrocities—real, exaggerated, and invented. The great tragedies of the white South were the loss of the Civil War and the humiliations of Reconstruction; for the black nationalist, the great tragedies were slavery, the colonial exploitation of Africa, and the European denial of the moral superiority of African culture and civilization, beginning with Egypt.

Our list of grievances may be specific to our particular ethnic or regional history, but the ideas that lie beneath our response evolved from the conflicts between the French and the Germans following the Thirty Years War. When Frederick the Great invited the French into Germany in the eighteenth century, French culture was the most admired in Europe, while Germany had contributed very little to the Renaissance. In today's terminology, Germany was "underdeveloped." Eventually, a whole school of rebellious German thought came into being, attacking the French worship of reason and the idea that there was one cultural standard by which all good, mediocrity, and baseness could be judged. When Isaiah Berlin describes outraged German thinking in *The Crooked Timber of Humanity*, he could be speaking

William Edouard Scott
Blind Sister Mary

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as easily of Afrocentrism and the cultural relativism that has been absorbed by Western society in general from the discipline of anthropology:

> The sages of Paris reduce both knowledge and life to systems of contrived rules, the pursuit of external goods, for which men prostitute themselves, and sell their inner freedom, their authenticity; men, Germans, should seek to be themselves, instead of imitating—aping—strangers who have no connection with their own real natures and memories and ways of life. A man's powers of creation can only be exercised fully on his own native heath, living among men who are akin to him, physically and spiritually, those who speak his language, amongst whom he feels at home, with whom he feels that he belongs. Only so can true cultures be generated, each unique, each making its own peculiar contribution to human civilization, each pursuing its own values its own way, not to be submerged in some general cosmopolitan ocean which robs all native cultures of their particular substance and colour, of their national spirit and genius, which can only flourish on its own soil, from its own roots, stretching back into a common past.

Malvin Gray Johnson
Negro Soldier

Afrocentrism's success is due to the fact that it reiterates those arguments, which have become central to the Western cultural debate. But we fail ourselves if we give in to the idea that because all human communities have equal access to greatness all cultures are equal. They are not, and the ignorance, squalor, and disease of the Third World make that quite obvious, just as the rise of the Third Reich and the recent slide into overt tribalism in Eastern Europe prove that no ideas or traditions make us forever invincible to the barbarian call of the wild. Yet if there were not something intrinsically superior about the way in which the West has gathered and ordered knowledge, other cultures wouldn't so easily fall under the sway of what André Malraux called "The Temptation of the West." The West has put together the largest and richest repository of human culture, primarily because the vision of universal humanism and the tradition of scientific inquiry have led to the most impressive investigations into human life and the natural world. It is Western curiosity and the conscience of democracy that have made so many inroads against barbarism within and without.

This is obvious to Afrocentrists, but it is not in their career interests to look with equal critical vision at the West and the rest of the world; it would make things less reducible to soap opera politics, to the maudlin elevation of simplistic good and evil. Then the real question of bringing together one's ethnic heritage with one's human heritage would need to be addressed. It wouldn't be so easy to manipulate the emotions of administrators and insecure students. Embracing a circumscribed ethnic identity wouldn't be seen as a form of therapy, a born-again experience enabling

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one to cease being an American shackled by feelings of inferiority and to become a confident, wise African.

The Afrocentrist goal is quite similar to that of the white South in the wake of Reconstruction. Having lost the shooting war, white racists won the policy war, establishing a segregated society in which racial interests took precedence over the national vision of democratic rights. The result was nearly a century of struggle before the Constitution—through blood, thunder, and jurisprudence—took its rightful place as the law of the land, with no states' rights arguments accepted. Knowingly or not, the Afrocentrist responds to the fact that black nationalists and their "revolutionary" counterparts lost the struggle for the black community in the Sixties. In the wake of submission at a latter-day Appomattox—the dissolution of black nationalism and groups like the Black Panthers—the Afrocentrist wishes to replicate the success of white segregationists. Like the segregationist, the Afrocentrist wants to benefit from the power and prosperity of the country while holding at arm's length anything incompatible with a vision of race as a social absolute. The Afrocentrist is waging a policy war through a curriculum that preaches perpetual alienation of black and white, no matter how far removed from the truth it may be. By attempting to win the souls of black college students and to fundamentally influence what is taught to black children in public schools, the Afrocentrist seeks a large enough constituency to bring about what white segregationists once promised—a society that is "separate but equal."

Yet the central failure of Afrocentrism is that it doesn't recognize what Afro-Americans have done, which is to realize over and over, and often against imposing obstacles, the possibilities inherent in democratic society. Lincoln recognized this when he told his secretary that, given his point of social origin, Frederick Douglass was probably the most meritorious man in the entire United States. Originating in tribes whose levels of sophistication were laughable compared to the best of Europe, black Americans have risen to the top of every profession in our society—as scientists, educators, aviators, politicians, artists, lawyers, judges, athletes, military leaders, and so on.

This achievement was hard-won. At its root was a cultural phenomenon. Instead of expressing their submission to white people by embracing Christianity, as black nationalists always claim, Afro-Americans recognized the extraordinary insights into human frailty that run throughout the Old Testament, and the fact that the New Testament contains perhaps the greatest blues line of all time—"Father, why hast thou forsaken me?" In essence, the harsh insights of the Bible were perfectly compatible with the cold-eyed affirmation of the blues, and from those spiritual and secular foundations an indelibly American sensibility evolved, one perfectly suited to the demands of this society. The result is an incredibly long line of achievements that predate the narrow black nationalism that would segregate the world and its culture into the Eurocentric or Afrocentric, and which are the very best arguments against all forms of prejudice.

We all deny that tradition of hard-won achievement whenever our conciliatory cowardice gets the best of us and we treat black people like spoiled children who shouldn't be asked to meet the standards that the best of all Americans have met. When the records need to be set straight, set them straight. When there is new information that will enrich our understanding of human grandeur and human folly, make that information part of the ongoing dialogue that has shaped Western civilization's conscience and will. But we can never forget that our fate as Americans is, finally, collective, and that we fail our mission as a democratic nation whenever we remake the rules or distort the truth in the interest of satisfying a constituency unwilling to assert the tragic optimism so intrinsic to the blues and to the Constitution. ■

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Let the Landlord Beware

The Trials of New York's Small Property Owners

Charlotte Allen

Monika Kehrer

New York's web of housing regulations can make life nightmarish for the city's small landlords, especially in the poorest neighborhoods. Herein are three of their stories.

Helen Daniels moved to New York in June 1986, buying a beautiful but badly run-down brownstone on Harlem's famous Astor Row at 130th Street. She planned to relocate the tenants of the house and live there with her parents and two teenage children. But the tenants quickly organized against her, and she ended up embroiled in a costly legal battle with the city. A year later, a Housing Court judge sent her to Rikers Island—even though, by that time, all her tenants had either moved out (at her expense) or died.

The harrowing experience of Daniels, a tiny, elegantly dressed woman who has worked most of her life for churches and charities (she currently operates an AIDS service organization), represents only one of numerous bloody skirmishes between residential landlords and tenants that take place all over New York, sometimes to

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the point of forcing thinly capitalized building owners into foreclosure and insolvency. "I've spent more than $100,000 in fines and legal fees," says Daniels, who at one point almost had her building seized because of unpaid repair liens stemming from her battles with tenants.

These landlord-tenant fights sometimes involve middle-class tenants in upscale neighborhoods who do not feel like paying rent and know how to work the legal and regulatory systems. More often, however, the properties in question are in poor areas. Anyone who buys rental property in a marginal New York City neighborhood should be prepared for an onslaught of crime, vandalism, drugs, and nonpayment of rent—and can expect little help or sympathy from the city government.

It is not unusual for landlord-tenant skirmishes in New York to involve tenants who have lived rent-free on the premises for more than a decade.

In some cases, as anyone who has ever been a tenant knows, the landlords are not exactly innocent victims. But in sharp contrast with the stereotype of greedy, sophisticated slumlords, a great many landlords are simply struggling entrepreneurs trying to eke out a living from one or two small buildings. "Sixty percent of our members are immigrants and minorities," says Roberta Bernstein, head of the thousand-member Small Property Owners of New York, an outspoken ten-year-old advocacy group for small-building owners.

New York's legal and regulatory systems are so heavily weighted against landlords that they provide official sanction, if not outright encouragement, for the most malicious tenants. Draconian rent regulations prevent many landlords from operating their buildings profitably; other rules prevent landlords, in some cases, from even collecting the rents to which they are legally entitled. A proliferation of regulatory agencies with overlapping jurisdiction means that a landlord can be cited and fined by several agencies for the same violation. Judges, lawmakers, and city officials who are overwhelmingly solicitous of tenants and hostile to landlords make it difficult, often to the point of impossibility, to evict a problem tenant.

Tenants can simply stop paying rent while they pursue their good-faith or bad-faith claims against a building owner, who is never relieved from his obligation to pay loan service, property taxes, and maintenance and repair costs. It is not unusual for landlord-tenant skirmishes in New York to involve tenants who have lived rent-free on the premises for more than a decade. And unlike many other jurisdictions, New York does not require tenants to deposit disputed rent moneys into escrow while fighting their landlords. (Housing Court judges can legally order such deposits but almost never do.) That means that even when landlords win, they often cannot collect the back rent due them, and there is a financial incentive for tenants to pursue unmeritorious claims.

The results are devastating not only to landlords but also to residents of the city's most marginal neighborhoods. The inability to evict drug dealers, vandals, and other disruptive tenants reduces the quality of life for their law-abiding neighbors. Landlords who cannot collect rent have a harder time making necessary repairs or even remaining solvent. Many eventually walk away from their buildings, which the city's Department of Housing Preservation and Development (HPD) then seizes for nonpayment of property taxes. Though subject to far fewer strictures than private landlords, HPD management of buildings is notoriously poor. A 1987 study found that markedly inadequate maintenance, heating failures, rodent infestation, and broken plaster and holes in the floor were widespread in city-owned buildings.

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A look at three landlords' stories illustrates the perverse results of city policies and suggests some possible reforms.

Deferred Hope in Harlem

Helen Daniels, who grew up in affluent Scarsdale, New York, represented a hopeful possibility: the return of the black middle class from suburbia to the decaying inner city. But it soon became clear that she had bought into a disaster. Her brownstone "had an open door," she says—landlord parlance for an outside lock broken by drug dealers to permit easy access for customers. "It was being run as a crackhouse. . . . [Prostitutes] were turning tricks in the bathroom. Someone removed the light meter, which put the house into darkness. The tenants had lights, however—they had illegal hookups." It also turned out that some thirty people were using her nine-room house as an address to collect housing-assistance payments as part of a welfare scam.

As soon as she moved in, Daniels says, the tenants began harassing her. They cursed her whenever they saw her, shouted insults from the street, and even called the church agency where she worked to complain about her. She did not press to collect the tenants' $215 monthly rent, and when none paid it, she did not take them to court.

In early July 1986, a month after Daniels bought the house, a group of city inspectors arrived and cited her for a raft of building violations, from missing lights to cracked window panes. "The violations had been there for years," she says. She started repair work, but the department sent in its own emergency-repair people who performed the work, billing her for more than $30,000. (This is standard procedure, according to HPD, but only after the owner has stalled in making ordered repairs.) In August, HPD sued her in Manhattan Housing Court, and she signed a stipulation, again agreeing to make repairs. She thought the issue was resolved, but as she walked out of the courtroom, she was hit with a second HPD suit. While the first suit was pending, someone had called an inspector, who cited her for the same violations. In December, she worked out an agreement to finish the required work and pay relocation expenses for the tenants. All but one accepted her offer, and the lone holdout died the following spring.

Meanwhile, HPD inspectors were arriving at her house almost every day, responding to tenant complaints: missing hall lights (other tenants stole the bulbs), weak floorboards in a bedroom (the occupant drilled holes in them), lack of heat and hot water. There were three separate fires—all suspected arson—inside the house, one stemming from a furnace chimney that someone had stopped up.

By the summer of 1987, when all the tenants were long gone and Daniels was in the process of moving into the rest of the house, HPD was still on her case. When it appeared she still had not cured some of the violations, the department hauled her back to Housing Court on contempt charges.

Photographs by Bill Kelly

Helen Daniels faced harassment by tenants from the day she moved into her Harlem home.

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Though Daniels produced a stack of paid bills and statements from contractors showing completion of repair work, the judge, Lewis Friedman, sentenced her to five days on Rikers Island (she served three). Her troubles were not over when she got home. The city briefly seized the house in early 1988 on a lien for the tens of thousands of dollars' worth of emergency repairs. And Daniels is still fighting the bureaucracy, which is seeking thousands of dollars in fines from her for allegedly missing a hearing date during the summer of 1986.

Most New York owners do not have to go to jail over violations in their buildings—although Friedman, who now sits on the state Supreme Court, had a reputation for locking up landlords far more readily than other Housing Court judges. Lawrence Schatt, the HPD's assistant commissioner for code enforcement, insists that court actions and the performance of emergency repair work by the department itself are measures of last resort, undertaken only when an owner fails to cooperate. But he also concedes that only recently did his department, which receives more than 350,000 telephone calls a year reporting violations, start to set up a computer system to help it screen out legitimate complainers from tenants who call in violations every day in

A Day in Housing Court

Jim Tsang sits in a dingy hearing room in downtown Manhattan on a Friday afternoon in March. In 1990 Tsang, a Hong Kong immigrant, had filed an eviction suit against a tenant of his small apartment building on Elizabeth Street in Chinatown. His case was dismissed, and in 1992 he paid the man $3,000 to move out. Two more years have passed, and Tsang is still in Housing Court, trying to evict Luz Maria Fernandez, the previous tenant's niece, who showed up claiming to be a "successor tenant" entitled to the apartment under New York's rent control law.

Fernandez has already defaulted on Tsang's eviction suit, but she persuaded a judge to reopen the case. No one—not Fernandez, not her uncle, not the city's Human Resources Administration, which Fernandez had promised to contact for emergency help—has paid a dime in rent on the apartment since 1990.

Housing Court is the bane of New York City's landlords, who complain that its judges and administrators bend over backwards to show solicitude for low-income tenants but have little sympathy left over for landlords—especially those who own small rent-regulated buildings, for whom a single nonpaying tenant can spell bankruptcy. For years, tenants without lawyers have been able to obtain help from court employees in filling out their papers, but only recently did the court permit landlords to set up an "owners' table" dispensing commensurate aid.

Most large cities set aside courtrooms that hear only housing cases. But in New York, the judges who decide residential landlord-tenant cases are the only jurists in the entire Civil Court system who do not stand for election; the chief administrative judge of the Civil Court appoints them. An advisory committee that participates in the selection process includes both landlord and tenant representatives, but landlords complain that a disproportionate number of former Legal Aid and housing-agency attorneys end up on the housing bench. And unlike landlord-tenant judges in other cities, New York judges never rotate out of Housing Court.

The newsletter of Small Property Owners of New York, a Manhattan-based landlord association, regularly publishes tales of judges who categorically refuse to evict certain classes of tenants, even if they have not paid rent for months: mothers of small children, for example, and people who seem mentally ill or likely to become homeless if forced out onto the street. Such kindly sentiments are perhaps under-

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order to harass their landlords. "It certainly is difficult right now to pick out the people who are calling for the sake of calling and those who have legitimate grievances," Schatt says.

Rent Strike

On West 25th Street in Chelsea, Marcy Boucher bought a century-old five-story walkup in 1985. Since then, she has been at war with a tenant, Diane Dowling, leader of a rent strike. The twenty-unit building was in an advanced state of decrepitude (including no water pressure for the upper floors) when Dowling moved in in 1982; Boucher and a partner acquired it for only $325,000 at a foreclosure sale.

Just before Boucher bought the building, Dowling had gotten herself appointed its administrator under Article 7(a) of the state's Real Property Actions and Proceedings Law. This provision allows courts to take the control of a poorly run building out of the hands of the owner and place it in the hands of an administrator who functions as a receiver, collecting rents and maintaining the building.

The 7(a) program is itself a bone of contention. Dowling has been accused of using it to harass her landlord, and Boucher has been accused of neglecting the building to get it into 7(a). Dowling's tenants have withheld rent for years, and Boucher has been in court for years trying to get them out.

Such disputes are commonplace in New York City, where tenants have powerful rights and landlords have powerful responsibilities. Both are frequently abused. Tenants who are unscrupulous about obtaining postponements, filing motions, reopening defaults, switching judges, claiming defective conditions in their apartments, and taking advantage of the court's overloaded calendar can stretch out the proceedings for months or even years, all the while occupying their apartments rent-free and running up legal bills for their landlords. "I was in court for six years over one tenant," says Frank Ricci of the Rent Stabilization Association, a landlord organization.

And what of Jim Tsang, whose ordeal has already dragged on for four years? Though his case seems open-and-shut, the judge, Jack Dubinsky, wants both sides to give a little. He offers a deal: Tsang will pay Fernandez $650 to cover her moving expenses and give her ten more days, in return for which Fernandez agrees not to contest the matter further.

"No matter what, you can't win—that's the system," Judge Dubinsky tells Tsang's lawyer, Jaime Delio. That inflames Delio. "In other words, justice has nothing to do with this courthouse!" he shouts.

Nonetheless, he signs the papers and arranges for his client to give Fernandez the $650 the next day. But when Tsang stops by the apartment 11 days later, Fernandez is still there.

"I've already spent $5,000 on legal fees," laments Tsang. "Now what am I supposed to do?" —*CA*

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tention for New York landlords. Although the provision looks fair on paper and 7(a) administrators supposedly operate under close supervision by the New York City Housing Court, it can be problematic in practice. For one thing, the Housing Court has a reputation for being notoriously pro-tenant, often giving inexperienced or power-hungry tenant-administrators generous leeway to roll back rents, install their friends in choice units, and fritter away money on unnecessary building work. The landlord remains liable for all carrying costs and taxes, though he has no direct access to rent receipts and no control of his building.

Harley Brooke-Hitching wanted to provide decent low-income housing, but found herself trapped by city policies.

Dowling remained as 7(a) administrator for two years, and the question of how she performed her duties is one of great dispute between her and Boucher. Dowling renewed leases at reduced rents for herself and other tenants, but she says the prior owners had raised rents to illegal levels for several of the rent-controlled apartments, including her own. (Her rent for a one-bedroom apartment was $375 when she moved in, and she discovered other tenants were being charged only $140 to $150.) Dowling maintains she performed her 7(a) duties exemplarily and kept meticulous records, completing her task of restoring the decaying building to livable condition before the court released her in 1987.

Boucher contends Dowling deliberately wasted money on overpriced, unnecessary repairs in an effort to force the building into insolvency and Boucher into tax foreclosure so the tenants could buy it for next to nothing under a New York City program designed to promote tenant ownership. "[Dowling] would hold meetings and tell the tenants that they would one day own the building," says Boucher, who maintains that Dowling spent tens of thousands of dollars for unnecessary work.

Boucher, who also lives in the building, has battled with her tenants on several fronts. She sued several times for unpaid back rent, but the cases were always dismissed because neither she nor the previous owner had registered the rents annually with the state's Division of Housing and Community Renewal, as the law requires. (Boucher says the division has yet to turn over any of the prior owner's rent records.) Tenants made numerous complaints to HPD, few of which resulted in citations for violations. They unsuccessfully tried to have her arrested for changing the locks on an apparently vacant apartment, and filed an unsuccessful harassment complaint, alleging that she continually denied them heat and hot water. Tenants won an $8,000 triple-damage award for rent overcharges, which Boucher is contesting, saying she did not receive notice of the proceeding.

It is hard to say who has the moral high ground in this conflict. Boucher and Dowling both

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claim to have court records backing up their position in the 7(a) dispute, but neither responded to my request to see the documents. One thing, however, is certain: with the exception of a single round of payments in 1987, Boucher has received no rent from Dowling and most of the other tenants during the nine years she has owned the building. Only two of the building's occupants pay rent, one of them Boucher's sister, and the $10,000 annual income the premises generate does not begin to match the $30,000 a year Boucher spends on taxes and operating costs.

Given that Dowling is occupying an apartment for free, it is difficult to sympathize too much with her complaints. After all, if things are really so bad, why doesn't she move? "Where am I supposed to go?" she asks. "To a $1,000 apartment? This is my home."

"Rent strikes are legal in New York," says Dowling's lawyer, Robert Grimble. "But that does not relieve the landlord from the obligation to maintain the premises, even the vacant apartments. The two things have nothing to do with each other."

New York City landlords must deal with two dozen different city and state agencies with overlapping jurisdiction, not to mention the courts.

Losing Everything

One of the most striking victims of the landlord-tenant wars is Harley Brooke-Hitching, a former art dealer who invested nearly everything she had to buy and renovate 11 walkups on 111th and 112th streets in East Harlem in 1985 and 1986. A little more than $1 million of her own cash went to purchase the buildings, and she borrowed $2 million for repairs. Now she has lost almost everything, including her own Upper East Side co-op, which she mortgaged to secure some of the loans. Of the 11 buildings on which she hoped to turn a profit while providing decent low-cost housing, 10 are in foreclosure; she is $18,000 behind on the taxes on the 11th.

A feisty redhead in her forties who packs a pistol for self-defense in this drug-infested neighborhood near Third Avenue, Brooke-Hitching works out of a tidy storefront office in a graffiti-covered 33-unit building that she owned until a few months ago. The office is filled with plants and group photos of the employees of her company, Equities Ltd.—photos from happier days, when her staff numbered 13 instead of its current 2.

"New York has a lot of really bad landlords," she says in the English accent that bespeaks a childhood divided between London and Oklahoma. Brooke-Hitching was determined not to be one of them. She cleaned, replaced broken doors and windows, installed new kitchens, painted the Victorian exteriors in brilliant colors, and tried to rent strictly to young working people—"sub-yuppies," she calls them—with back-office jobs on Wall Street, a convenient subway trip downtown.

It worked for a while. She was able to charge up to $800 a month for some of the bigger units, and the collective value of her properties soared to $4.5 million by 1989. But with the recession, her working tenants' jobs disappeared. She started filling her units with less desirable renters: single mothers, welfare recipients, and finally homeless people from the city's shelter program, which pays private landlords a bonus for accepting former shelter residents. Brooke-Hitching's affordable-housing empire gradually collapsed under a load of incessant fines, rising taxes and fees, and destructive tenants.

"The drug dealers would break the windows, store drugs on the outside sills, rip out mailboxes so they could store drugs in the slots, break the doors," she says. "Other windows get smashed by someone's boyfriend who's angry. I have to renew their leases. A tenant can walk out on a lease, but I can't. . . . The tenant has zero level of responsibility." She started

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getting $50 fines every day for failing to comply with the city's recycling laws. "The joke around here is that recycling means paper goods out the front window, canned goods out the back."

When she was not trying to evict deadbeat tenants—one woman lived rent-free for nearly a year, managing to squeeze in a vacation to Puerto Rico—Brooke-Hitching scrambled to refinance her mortgages, getting caught in the real estate downturn, which wiped out her equity. But financial institutions were less and less willing to lend money on beat-up housing in neighborhoods like East Harlem.

A 1993 study identified 140,000 apartments as in danger of abandonment. Another study found that one in eight rent-stabilized buildings is not economically viable.

Brooke-Hitching became increasingly frustrated. "The first time you see the graffiti, you paint it over right away," she says. "The second time, you wait three months, the third time six months, and so on." At her sole remaining building, every available surface, inside and out, is scribbled with graffiti. Floor tiles are missing, and the ripped-up remains of a kitchen fixture, installed brand new a few years ago, is stashed in a hallway. Brooke-Hitching spells out the building's economics: annual income, $110,000; expenses, taxes, water and sewage fees, $85,000; debt service, $22,000. That leaves a mere $3,000 profit—if nothing serious goes wrong. City policies make it inevitable that something will.

A Legal Revolution

Helen Daniels, Harley Brooke-Hitching, and others are victims of both New York's peculiar policies and what legal scholars have called a "revolution," over the past three decades, in the way the law regards residential landlord-tenant relations. The relationship between landlord and tenant has moved from one based on contract, with responsibilities strictly spelled out in the lease, to one based on status—in which the tenant (but not the landlord) has rights not necessarily stemming from any language in the lease or even dependent on his payment of rent. Residential tenants have become like medieval serfs, who could not be removed from the land they occupied, and who, as the Middle Ages progressed, had fewer and fewer duties to its putative owners. Hardly any jurisdiction has carried out these changes as fully as New York City.

Before the late 1960s, landlords generally had no duties beyond what the lease defined, and they had little obligation to ensure that the premises were habitable or even safe. Even if a landlord violated one of the lease terms, the tenant's obligation to pay rent continued; his only remedy was to move out and sue the landlord for damages. Rent regulation existed in very few places, New York City, of course, chief among them.

Today, almost every state recognizes an "implied warranty of habitability" that requires landlords to provide safe and livable premises and releases tenants from their duty to pay part or all of their rent if the landlord does not live up to this obligation. Most courts have interpreted "habitability" to mean full conformance with housing code regulations, no matter how minor. At the same time, courts and legislatures have restricted landlords' right to evict tenants once the lease is up. In New York, even if a tenant stops paying rent for no good reason or stays in an apartment after a judge orders him to move, the landlord cannot lock him out or cut off the water or other services—that would constitute "harassment."

Given all this, it is hardly surprising that many New York City landlords feel they are at the mercy of both their tenants and the government. A pamphlet titled "What Every Landlord and Tenant Should Know," issued by the Citizens Housing and Planning Council, points out that tenants can be evicted for such acts as destroying property, dealing

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drugs, or failing to comply with recycling laws. But in practice eviction is impossible unless the tenant is caught in the act. "Most judges require at least an arrest" before allowing a landlord to evict a drug-dealing tenant, notes L. Jeffrey Roth, a Manhattan housing lawyer. And the law is a double-edged sword for landlords: if their buildings decay when they turn into drug markets, the landlords can be held liable for the harm to tenants.

New York City landlords must deal with two dozen different city and state agencies with overlapping jurisdiction, not to mention the courts. This gives tenants an almost endless array of options for pursuing grievances, justified or not, against their landlords.

Suppose a tenant alleges a housing code violation. He can call in a complaint directly to HPD, which will send an inspector and can sue the landlord if he fails to correct a violation. The tenant can sue the owner, triggering a court-ordered inspection and a possible award of damages. He can refuse to pay rent and, when the landlord brings an eviction suit, ask for an HPD inspection that could lead to a rent abatement, an award of damages, or both. Or he can bring the violation to the attention of the state's Division of Housing and Community Renewal and get the most recent rent increase rescinded. The tenant can file a harassment claim if he alleges the violation involved a deliberate cutoff of services to force him to move or to retaliate for a rent strike; substantial fines and rent reductions may result.

Exacerbating these problems, the City of New York has for many years pursued a policy of encouraging tenant takeover of marginal buildings by granting special breaks not available to private landlords. (There is some indication that this policy may change under Mayor Rudolph Giuliani.) Tenant associations can buy tax-foreclosed buildings for only $250 a unit. They also receive forgiveness of all back taxes, low-interest loans, and substantial abatements of taxes for the future. Similarly, if HPD operates a building after a tax foreclosure, it not only can raise rents without worrying about rent regulation, but also is exempt from taxes, water and sewage fees, and fines for code violations. One of the most bitter ironies for marginal landlords is that the city spends an average of $420 a month per apartment to operate a tax-foreclosed building—*without* the expenses of real estate taxes, water, sewage, and insurance. The same building's last private owner would have been expected to meet all expenses, including taxes, water, and sewage, on perhaps $200 or $250 a month that rent regulation allowed him to collect.

The consequences of all this are plain to see: unprecedented levels of housing abandonment that are likely to accelerate the deterioration of New York City's housing stock, to the ultimate detriment of the very tenants that the past few decades' housing policies were designed to protect.

A 1993 Community Service Society report identified some 140,000 apartments in the city as in danger of abandonment. Another 1993 study, by the city's Rent Guidelines Board, found that one in eight rent-stabilized buildings is not economically viable. The dollar value of real estate tax delinquencies—a sure sign that a building is in trouble—nearly doubled for landlord-owned multifamily dwellings between the 1990 and 1993 fiscal years, from $69.7 million to $127.1 million. Nearly half of this sum came from the small walkup apartment buildings common in poor neighborhoods.

Many reforms have been proposed: elimination of duplicative enforcement bureaucracies and punitive fines for landlords who act in good faith; tax abatements and more access to low-interest loans for marginal owners facing foreclosure; beefed-up housing assistance to help poor families pay sufficient rents to enable their landlords to stay in business.

Most importantly, the State Legislature should take a simple step to bring fundamental fairness to landlord-tenant disputes and deter tenants from pursuing bad-faith claims: require that all protesting tenants pay disputed rents into an escrow account supervised by a court or administrative agency. Rent strikes may be legal in New York, but no one should be able to live rent-free while carrying them on. ■

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Taking Back the Streets

George L. Kelling and
William J. Bratton

The New York Police Department is committed to community policing. To make this new approach work, the department must confront tough questions about its priorities and practices.

The New York City Police Department is fundamentally changing its basic strategy. This shift is in response to strong demands from local residents for police help in dealing with neighborhood problems such as illegal firearms, youth violence, drug dealing, domestic violence, and public disorder. The more assertive policing this new strategy entails does not, as some have suggested, represent a retreat from community policing. To the contrary, for police to become more assertive in handling complicated social problems is the essence of community policing. It reflects a break from a half-century of conventional wisdom about policing.

In brief, the old style of policing was characterized by strong centralized command and control that aimed to prevent police corruption and abuse by limiting contact with the general public, by a paramilitary model that emphasized "crime fighting" rather than crime prevention and order maintenance, and by a reactive approach in which the police became involved only after a crime had occurred. This approach failed on its own terms: crime increased and corruption and abuse, though reduced, persisted. It had other adverse consequences as well: the creation of an insular police culture, a focus on arrest statistics to the exclusion of preventive methods of crime control, and an inability to respond effectively to the proliferation of public disorder. The result has been a pent-up demand for qualitatively different policing to deal with neighborhood problems. (The intellectual evolution of community policing has been detailed in several past *City Journal* articles, including, most recently, "Making Community Policing Work," by George Kelling, Winter 1994.)

In New York City, police commissioners back to Patrick V. Murphy (who served from 1970 to 1973) have struggled with these problems. Murphy experimented with team policing, which bore many similarities to community policing. Benjamin Ward (1984-89) implemented the Community Patrol Officer Program, which created special community policing units. Lee Brown (1990-92) took the first steps in carrying out his vision of department-wide community policing, and his successor, Raymond Kelly (1992-94), continued the process, setting up formal networks of communication to give line officers a voice.

But although the shift to community policing has been in progress for some time, it is impossible to exaggerate the extent to which the practice of involving patrol officers with issues like drug dealing and the quality of life is a departure from the recent past of

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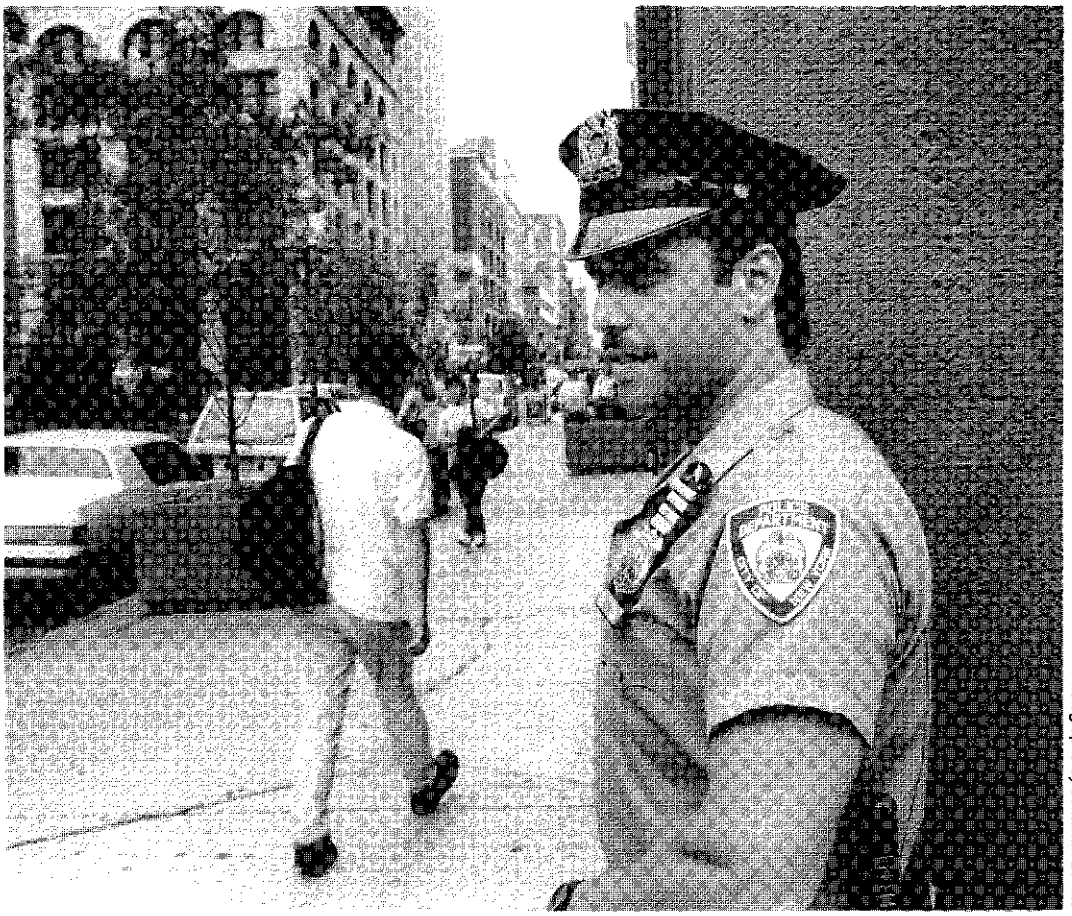

Photographs by Jonathan Levine

policing, both nationally and in New York City. Citizens, for the most part, are eager for a resolute police presence in their neighborhoods. Yet establishing such a presence puts police into ambiguous moral, social, legal, and constitutional territory. In implementing community policing, the NYPD will have to deal with complex issues involving civil liberties, the fear of harassment and abuse of minorities, the possibility of violent conflicts between police and citizens, the potential for corruption, and resistance within the department from officers and leaders steeped in conventional police culture.

For police to become more assertive in handling complicated social problems is the essence of community policing.

Civil Liberties

Jane Jacobs defined the terms for understanding the significance of disorder in cities in her classic book *The Death and Life of Great American Cities.* Urban civility depends on what Jacobs calls the "small change" of city life: the "built-in equipment allowing strangers to dwell in peace together on civilized but essentially dignified and reserved terms"—that is, the myriad of mundane street observances and rituals through which people communicate their reliability and predictability: limiting eye contact, respecting personal space, modulating voices, walking to one side of the street.

Wesley Skogan of Northwestern University, in his research in forty cities, confirmed both Jacobs's intuitive understanding and the "Broken Windows" hypothesis—that disorder left untended escalates into serious crime. Citizens, regardless of social class or ethnicity, generally agree about what constitutes disorder, and they want something done about it. Rules of civility are not impediments to pluralism and diver-

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sity. On the contrary, civility is a necessary condition for tolerance.

Yet neighborhoods are capable of pettiness and meanness as well as care, sustenance, and protection. As Harvard's Mark Moore has said, "Citizens should neither take nor give offense easily." Built into our social system are individualistic political values that place great importance on free expression and personal autonomy. These freedoms benefit communities as well as individuals, by enriching political and social discourse through innovation, creativity, and even deviance.

Thus all citizens, and their police, stand in a tension between individual rights and the interests of communities. This tension has led to legal and political conflict in city after city. In Chicago, public housing officials, on behalf of desperate tenants, seek some form of authority to rid the projects of weapons—invoking search-and-seizure issues. In New York, the Larry Hogue fiasco, in which a seriously disturbed man terrorized a neighborhood for years, with mental health and court officials claiming that nothing could be done without violating his personal freedom, epitomized the city's struggle. In Seattle, City Attorney Mark Sidran has been hung in effigy for proposing that street people should not be able to lie down on commercial streets during shopping hours.

The NYPD must work hard to forge the relationships with citizens that will enable them to regain control of public spaces.

On one side in the dispute over public order are civil libertarians, especially the American Civil Liberties Union, who fear that society is dusting off old vagrancy statutes to harass the homeless and hide the dire circumstances of poor citizens, especially minorities. On the other are representatives and residents of neighborhoods, now allied in most cities with their police, who are faced with the devastation that a seriously disturbed, substance-abusing, and predatory population—only some of whom are actually homeless—is wreaking on city streets and in public spaces.

This alliance between neighborhood residents and police against civil libertarians represents a strong shift in policing. Whether explicitly or not, American police and civil libertarians have maintained an important conceptual and practical alliance for decades. When libertarians say, for example, "Police shouldn't worry about problems like panhandling—they should do their *real* job, concentrating on serious violent crime," their position is identical to that of a generation of American police. "If only police could concentrate on crime, they could really make a difference" was the oft-heard 1950s and 1960s police lament. Police and civil libertarians have, of course, taken this position for different reasons. But the similarity in their rhetoric is striking.

The tension between individual rights and assertive policing takes another form as well. As police are called on to deal with problems of youth and domestic violence, they come into more intimate contact with institutions, such as the family and schools, in which American society has been loath to have police involved. Crime within these institutions interferes with their functioning and threatens the values that they bring to society: families fail to nurture; schools fail to educate; homes and neighborhoods become places of terror and pain instead of refuge. Police are in a tension between respect for the integrity of these institutions and the need to assert themselves when things begin to go awry inside them. Old-style "crime fighting" seemed clear-cut and unambiguous; assertive community policing is fraught with ambiguity.

Police and Minorities

There is no denying the historical and contemporary reality of a troubled relationship between minorities and police. Yet the relationship is far more complicated than such an acknowledgment would imply. The reflexive conclusion that minorities despise

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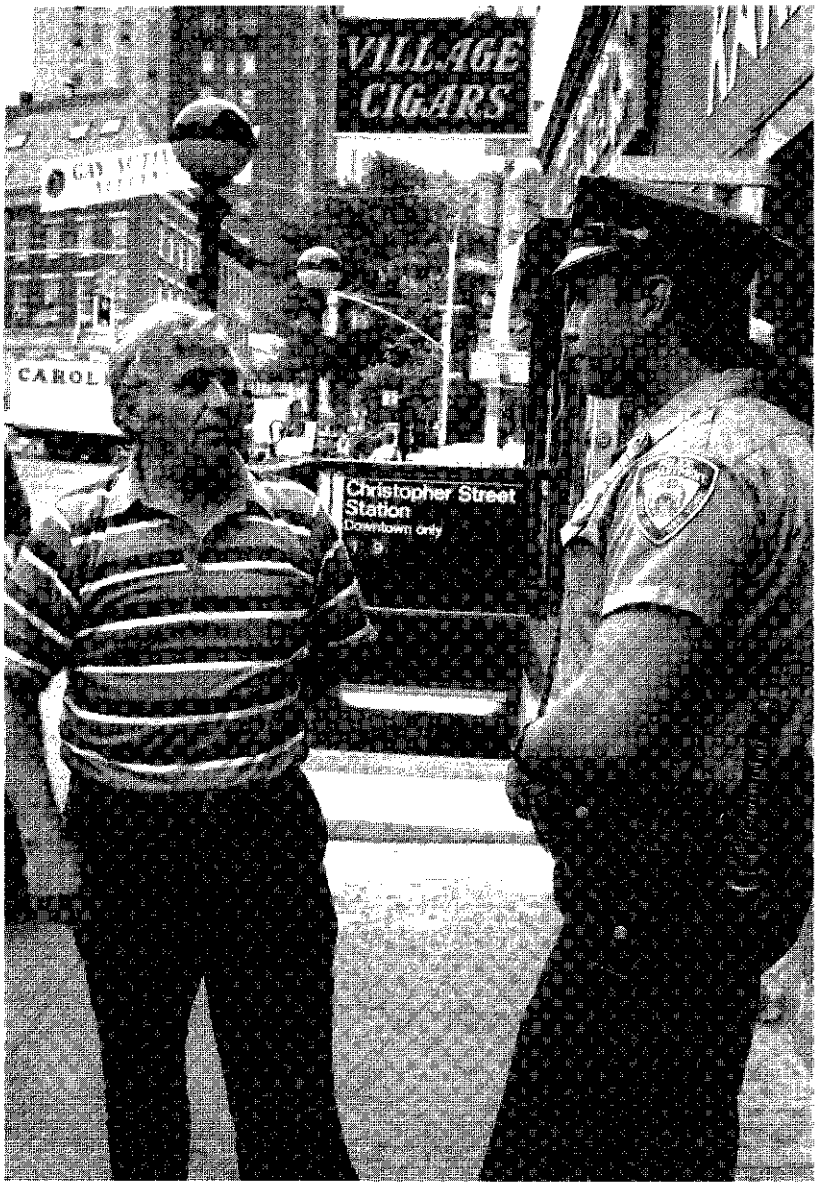

police, want them out of their communities, will not cooperate with them, and certainly will not tolerate assertive policing can become a self-fulfilling prophecy that deprives many minority communities of quality policing.

George Kelling (one of the authors of this article) recently met with a group of public housing residents in a predominantly black neighborhood of a large Midwestern city. Although Kelling preferred to meet in one of their homes, the citizens insisted on meeting in a nearby church. Later they explained that they feared meeting in the development because Kelling was white, and local hoodlums, assuming he represented government or police, would retaliate against them. These representatives were desperate: gang members had taken over the project and made life impossible for residents. The residents, all African-Americans, went on to express their anger with police—not about brutality or abuse, but about the *lack* of police presence and assertiveness. They believed that police had abandoned them.

The next evening, Kelling rode in the same neighborhood with a young police officer who had been on the job patrolling the area for two to three years. Riding past the same public housing development, the officer told Kelling: "Every citizen in that project hates us."

Neither the wishes of the citizens nor the beliefs of the officer were atypical. Minorities in focus groups of New York City subway passengers; neighborhood residents in New Haven, Connecticut; and minority citizen groups in Boston, Chicago, Indianapolis, and other cities express the same longing for a robust police presence. Such views are so pervasive that Chief Rueben Greenberg of Charlotte, South Carolina, who is black, says he has *never* heard African-Americans complain about too much policing. Likewise, national opinion polls demonstrate that minorities are even more frustrated with the effectiveness of criminal justice agencies, including police, than whites are. This is not surprising, since victims of crime are disproportionately minorities. They want police in their neighborhoods—not strangers who whiz in and out responding to calls, but police whom they know and who are predictable.

The officer's belief that minority citizens hate

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police cannot be dismissed as foolish or racist. Such beliefs, widespread in policing, have their basis in street experience. Both of us—Bratton as a cop on Boston streets and Kelling as an observer in cities including New York—have witnessed innumerable situations in which police are called to a housing project and arrive at the scene only to be greeted by surly looks and citizens unwilling to provide information. These citizens, desperate as they may be to protect their children and property, are afraid to be openly friendly to police, both because they fear retaliation by neighborhood troublemakers and because they fear that police will reject their overtures.

Police are peacekeepers who must keep peace by peaceful means. Persuasion and negotiation are some of the most basic use-of-force skills.

The problem for officers is that little in their backgrounds prepares them for such experiences. Most police, with working- or middle-class origins, are unfamiliar with minority neighborhoods. Their training has tended to alert them to the dangers of such places, but they know little else about them. Police tactics have isolated officers in cars, and policy discourages "idle" conversation. Neighborhood residents or their representatives have sometimes met with community relations officers or middle-managers, but rarely with the officers who patrol an area. The unfortunate but predictable consequence is that officers fear minority neighborhoods. The officer who said that "everyone hates us" was expressing this fear, not racism or cynicism.

Happily, police leaders increasingly understand the costs of isolating officers from the neighborhoods they patrol. In Bedford-Stuyvesant, Brooklyn, Kelling has walked with a neighborhood patrol officer, a white woman in her late twenties who has been on the NYPD for about two years. Asked how long it took her to become comfortable patrolling her beat, she responded: "Oh, after about four months—when citizens stopped referring to me as 'white lady' and called me by my name." This was not a naive or foolish officer; she knew that this was a troubled area. But she also knew that she had strong backup from her colleagues, and, more importantly, she knew and was known by neighborhood residents. She knew that the vast majority of them are law-abiding citizens who were delighted by her presence in their neighborhood and, as good citizens in every neighborhood, protective of "their" police officer. Her experience confirms the findings of Robert Trojanowicz's research in Flint, Michigan, during the 1970s: officers riding in two-person cars were more fearful than officers walking alone in the same areas.

The NYPD must work hard to forge the relationships with citizens that will enable them to regain control of public spaces. The idea that minority communities are implacably hostile to police is as outlandish as the idea that all police are racists bent on harassing and abusing minorities. Perpetuating these myths may serve some political agendas, but it also exacerbates the problem. Keeping police from doing their work in minority communities is no way to make up for the sad history of relations between police and minorities.

Violent Encounters

Leaders and observers of police departments raise legitimate concerns about whether more assertive policing will lead to more violent encounters between citizens and police. We must emphasize, however, that this is not inevitable. When William Bratton was commissioner of New York's Transit Police Department, ejections for violating subway rules *tripled* in a matter of months. Yet complaints against police did not increase, and there is no evidence that the number of violent confrontations rose. It is also important to note that police cannot be held hostage to the possibility of increased violence. If they were, some of New York's most dedicated and vicious criminals could continue to operate with impunity. Police must do all they can to avoid violence, but if con-

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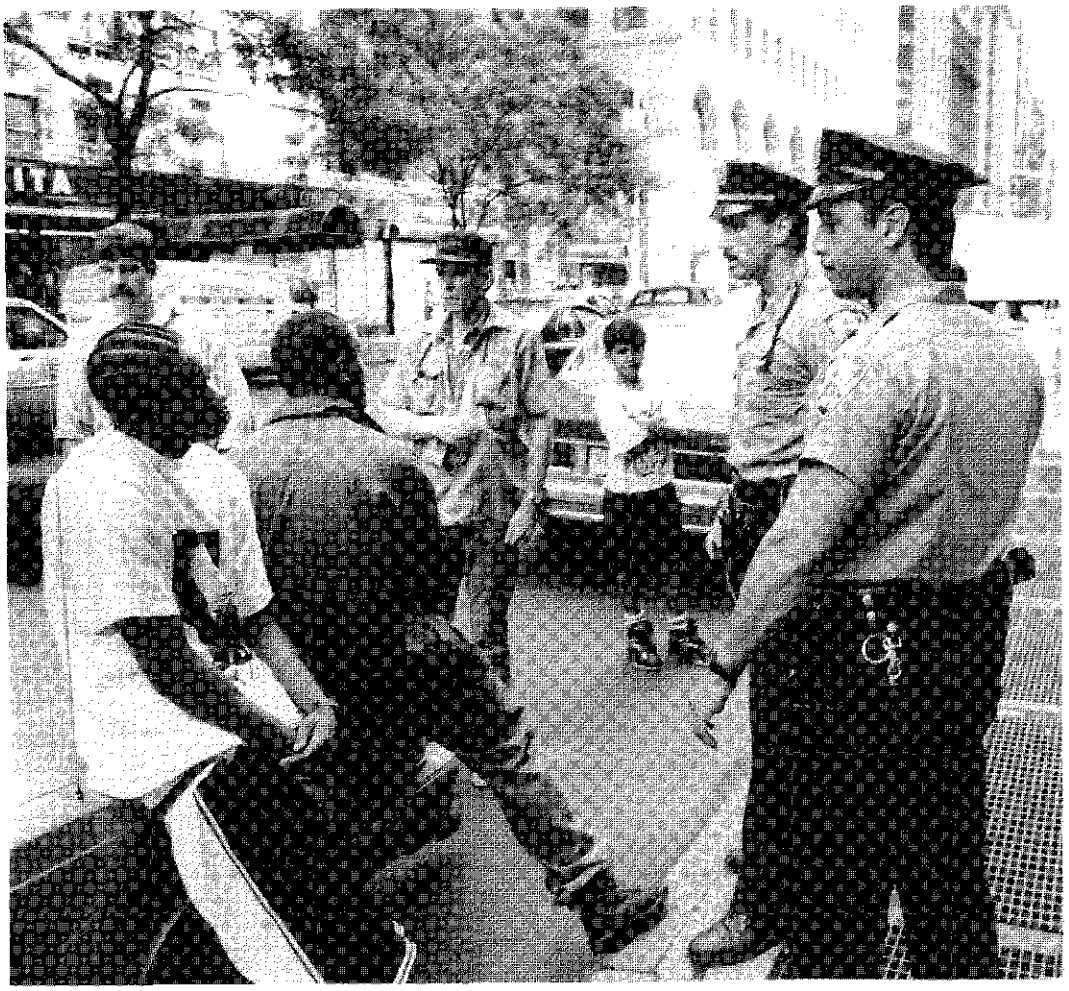

fronted with resistance from offenders, they must be prepared to use force, legally and skillfully—and efficiently (that is, using as little force as required).

As sociologist Egon Bittner has pointed out, the core capacity of police is their ability to use force, whether in dealing with crime or in their other peacekeeping and service functions. Of primary importance, however, is how to *avoid* the need to use force, which endangers both citizens and police. This issue is as old as policing itself. Sir Robert Peel, who set up London's first police force in 1829, instructed police about their duty to earn approval and gain compliance by persuasion, negotiation, and exhortation. "Keeping peace by peaceful means" was how Peel described the work of police.

Sometimes, of course, police must preemptively threaten or use force. But they should not rely too heavily on preemptive "strikes" to forestall resistance. Most officers, in most interactions with citizens, use their authority discreetly and respectfully. Nonetheless, enough situations of preemptive force develop, especially in minority communities, and especially when police deal with male youths, to justify concern.

Conventional policing, with its military-style training, insular culture, and warrior mentality, reinforces a tendency to use preemptive force. Police, conditioned to be wary of citizens, often begin their encounters not with conversation to persuade, but with confrontation to overwhelm. Because police believe (with some good reason) that they must win any confrontation, citizens—often male youths—must lose, deserving or not. This cycle further increases tensions, as officers become more aggressive and youths become more resentful. When crises occur, circumstances may spin out of control. In critical confrontations, when officers need support, community members often withhold it. In the worst of cases, observers come to the aid of the offender rather

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than the police. In some neighborhoods, even good citizens refrain from supporting police—partly out of fear of retaliation from the youths, but partly in response to their own observations and experiences with police.

Police are not warriors involved in all-out, no-holds-barred conflicts with citizens or entire neighborhoods; they are peacekeepers who must keep peace by peaceful means. Police training must teach officers how to use force skillfully and effectively. Persuasion and negotiation are some of the most basic use-of-force skills.

Corruption

Increasing police involvement in neighborhoods—especially where drug dealing is a problem—prompts fears of police corruption. Indeed, a central justification for isolating police from citizens has been the desire to keep officers away from the temptation of corrupt activity. Three principles must underlie anti-corruption efforts.

First, withdrawing police from neighborhoods is not an acceptable way to avoid corruption. The problems of the city are too grave to allow the NYPD the luxury of keeping the vast majority of honest police from doing their jobs in the name of controlling the small percentage who might become corrupt.

Many police executives inadvertently describe community policing in "soft and woolly" terms—making it sound like social work.

Second, reducing the authority of precinct commanders over their personnel dilutes the effort to decentralize authority, a vital step in making the NYPD responsive to neighborhood concerns. Precinct commanders must have the authority, resources, and responsibility they need to ensure the quality of policing in their areas. While people of good faith may debate the value of civilian review, external investigative bodies, and internal affairs units, none of these efforts should be implemented in a way that dilutes the accountability or responsibility of precinct commanders.

Third, the same admonition holds for the commissioner: nothing should dilute his accountability for ensuring both his department's integrity and the quality of its policing.

Citizens, however, have an important role to play in maintaining the integrity of police. Traditional policing isolated officers from citizens through secrecy, secluded socialization of recruits, the development of an insular culture, and the creation of organizational boundaries that were largely impenetrable by civilians. Those days are over. Civilian researchers are all over policing; civilians have moved into key policy and training positions. The recruitment of minorities and women has made police culture more open.

The devolution of authority to precinct commanders makes the NYPD more open to its "consumers," the citizens and guests of New York City. Decentralization acknowledges the diversity of New York and its problems. As officers move into communities, citizens have more influence on police. Whereas demand for police service had been channeled centrally through 911, the presence of officers on neighborhood streets makes them available for direct communication and requests for service.

Officers' increasing availability, combined with an aggressive integrity program at all levels of the NYPD, defines a role for citizens in the maintenance of integrity as well. Just as police departments across the country have made it easier for citizens to come forth with complaints of abuse, so departments must increase their receptivity to complaints of corruption.

By no means do we suggest that citizen input alone can ensure the integrity of a police department. The department also needs strong management, personnel, and investigative processes to reduce corruption. But more openness to citizens, while it may

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increase the opportunities for corruption, can also create new ways of ensuring integrity.

Changing Police Culture

It is no secret that many officers, in New York and elsewhere, are dubious about community policing. This is a testimony both to the power of conventional police ideology and to the scant attention police leaders have paid to changing the culture of their departments.

Mid-century reform leaders used powerful metaphors to support the changes they were putting in place: police were a "thin blue line"; they fought "wars" on crime; they were "professionals." These leaders dismissed many historic police services such as order maintenance as "social work"; the only true police business was "crime fighting." Virtually the only things police departments counted were serious crimes and arrests; other police activities came to be labeled as "junk" work or much worse. Yet empirical studies have shown that crime fighting accounts for only about 20 percent of police work.

Moreover, police departments created elite investigative and special units to which "high producing" officers—those who made many arrests—were promoted. Officers who paid attention to citizen and neighborhood concerns were accorded far less respect.

Community policing represents a fundamental departure from this ethos. Police leaders have done a superb job of communicating this change to political leaders, the media, and citizen groups. President Clinton and Attorney General Janet Reno are touting and funding community policing. This would have been unimaginable to those of us who were wrestling with the concept during its inchoative stages in the early 1980s.

But police leaders have largely failed to communicate effectively with their own personnel. For one thing, they have been influenced by the old reform idea that administration *thinks*, supervisors *oversee*, and line officers *do*. In truth, officers have contributed a great deal to the changes in police strategy, and police leaders need to make a systematic effort both to understand officers' concerns and to provide them with information about the new direction of their departments. Another problem is that many police executives inadvertently describe community policing in "soft and woolly" terms—making it sound like social work. Reared on crime fighting, most officers are initially skeptical of what sounds like "soft" policing.

But once officers, even grizzled veterans, get involved in community policing, most find that it gives new meaning to their work. They discover for themselves the links between disorder, fear, and serious crime; the importance of the information they gather from cooperative citizens in preventing and solving crimes; the deep appreciation citizens have for assertive policing; and the salutary effects their activities have on citizens and neighborhoods. Eventually, many come to say something like: "This is why I went into policing in the first place." Police leaders need to close the gap between the new definitions of function and their department's tactics, and between the organizational structure and its managerial processes, as rapidly as possible. Contemporary police leaders must develop metaphors for community policing that are as powerful as the war metaphors of an earlier era.

Solving Problems

Police leaders and scholars have not asked all the needed questions about policing, or given all the answers. This may seem obvious, but it is an important lesson from police history. During the 1960s, when disorder, fear, and crime were becoming national problems, police executives generally thought little was wrong with the way they did business. Oh, some technical improvements, seemingly well-understood, had to be implemented. And police departments had to develop community relations programs to convince neighborhood groups, especially minorities, that while they might not *like* how they were being policed, police methods were so effective that citizens must accept them.

We now understand that matters were far more complicated than the then-dominant vision of polic-

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ing acknowledged. As we develop community policing, it is important to bear in mind that police must act in accord with the many different, sometimes competing, values of the society in which they work. How we translate these values into policy must be the subject of vigorous public debate.

This is a particularly salient point in New York, where critics of Mayor Rudolph Giuliani have claimed that his "tough talk"—in particular, his questioning whether police should do "social work"—represents an abandonment of community policing.

In fact, the NYPD remains committed to community policing. The issues Mayor Giuliani has raised, like the tensions we have discussed in this article, are important matters of professional debate about which considerable diversity exists in the field. Many members of the police and academic communities, who are not divided along racial, political, or professional lines, are asking basic and searching questions. Should police do for citizens what they can do for themselves? Should police do for citizens what other agencies have been chartered and funded to do? Should police be involved in organizing communities? What activities are legitimately included as police crime-prevention efforts? What should police refuse to do? What is the role of private security? Should police engage in major operations to retake neighborhoods when citizens will not become involved? No conceptual template can predetermine the "correct" answers to such questions; they can be found only through debate and experience.

The devolution of authority to precinct commanders makes the NYPD more open to its "consumers," the citizens and guests of New York City.

The NYPD and other departments will resolve many of the tensions we have discussed through improved training, procedures, organizational values, and policies. Some cities, including New York, are trying to go further to ensure that the public is kept apprised of how police departments are shaping new strategies. The NYPD has recently published five strategic documents, detailing the department's plans for dealing with illegal firearms, youth violence, drug dealing, domestic violence, and quality-of-life issues. Their primary purpose is to provide guidance to precinct commanders about citywide priorities, but they are also *public* documents that put forth the department's values, the shape of particular problems in New York City, the NYPD's understanding of current research about particular issues, the tactics the department will use to address these problems, and a target date for preliminary evaluation of the efforts. They expose the NYPD's legal, analytical, and tactical thinking and encourage public and professional debate, not only about priorities, but about the rigor and quality of departmental thinking as well.

These documents establish accountability in the process of determining priorities and methods. They represent the NYPD "thinking out loud" about the tensions and dilemmas of policing in a democracy. In a free society, order—and the means we use to secure it—can be as big a problem as disorder. By asking difficult questions about complex problems, the NYPD is facing up to its critical challenge: restoring order to urban neighborhoods while preserving individual rights. ■

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Putting Children First

A New Direction for Welfare Reform

Myron Magnet

The current welfare-reform debate is profoundly misdirected. The central problem with our welfare system is not that it deters poor women from working, but that it does not safeguard the well-being of their children.

President Clinton's welfare reforms won't work, because they are the solution to the wrong problem. A workfare program, such as the president favors, only makes sense if you assume that welfare is fundamentally an employment problem of young women. Just get these women into the workforce, goes the reasoning, and that in itself will serve to make them independent. Their new independence will kindle in them the other qualities needed to make them good mothers and, even beyond that, good citizens.

Put aside for now the question of whether the means the president favors will achieve the employment goals he seeks—whether workfare as the Clintonites imagine it will ever get many hard-core welfare mothers into real jobs or will instead turn out to be a dismal progression of training programs of the preparing-to-write-a-résumé, preparing-to-go-to-a-job-interview variety, ending at last in

Photos by Mary Ellen Mark

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a costly public jobs program whose clients will work as cynically and profitlessly as Moscow street sweepers under communism. The real point is this: the welfare problem isn't about employment. It isn't even about young women. It is, instead, about children and their welfare, realities ignored in the current welfare reform discussion. Listening to it, you can momentarily forget what an enormous price children often end up paying for the living their hard-core welfare mothers extract out of them. With the connivance of the system, many welfare children—when neglected, beaten, unimmunized, deprived of the moral and cognitive nurture that families normally provide small children—end up their parents' exploited victims.

Instead of solving the problem, the administration's outlined reform is the last gasp of a failed approach. Unintentionally, try as it may to cut through welfare's Gordian knot, it leaves intact the basic assumptions in which the current problem is enmeshed. Because it continues to subordinate the interests of children to the supposed economic interests of their mothers, it won't stop welfare from being a way of life. The trickle-down theory of nurture at its heart—the assumption that once the mothers are drawn into employment the children's welfare is assured—won't solve welfare's central ill: that it helps perpetuate an almost hereditary underclass of individuals whose childhood in fatherless families, nurtured by women too young and unprepared to be good mothers, so often dooms them to unfulfilled, unsuccessful lives.

The right way to reform welfare is not to tinker at the edges of an exhausted paradigm that created the problem in the first place. Reformers need to rethink the issue anew, outside the confines of the old orthodoxy.

That orthodoxy came into being in the 1960s, as part of a reformulation of the nation's most basic beliefs and values that it is only a slight exaggeration to think of as a cultural revolution. The reformulation took place in the name of two related liberations. First was a political liberation: a crusading effort to complete American democracy, to free the excluded Have-Nots, the poor and black, from marginalization. Out of that honorable impulse came developments ranging from the great 1964 Civil Rights Act to multicultural education to the National Welfare Rights Organization.

The second liberation was a personal one: an effort on the part of the Haves—by which I mean not the rich but the mainstream, the established—to achieve an inner deliverance from a sense of anxious, deadening conformity as organization men in grey flannel suits into a freer, more authentic, more spontaneous, more life-affirming, happier selfhood. Out of that impulse to escape from—or at least loosen—the limits of bourgeois discipline and morality came the sexual revolution and the counterculture.

Though these changes in the culture began with an elite, they rapidly diffused themselves into the college-going, newspaper-reading, TV-watching, popular-music-listening, church-attending portions of the population at large, as the explosion in the U.S. divorce rate beginning in the 1960s attests, to take only one example of how the new norms revolutionized behavior. Now the new norms radiate out from the most trivial expressions of our culture—from almost any perfume or underwear ad or popular song, for instance—as well as from the more official expressions, such as almost any federal social policy or almost any editorial in the *New York Times.*

Unfortunately for the worst-off, too many of the messages that came to them from the new culture only served to bind them more firmly to their poverty and marginality. The new culture devalued all the things you have to do to get out of poverty, like hard work at *any* job, and glamorized things that keep the poor poor and the marginal marginal, like careless promiscuity and "recreational" drug use. In the realm of public policy, it transformed the institutions—welfare prominent among them—that help shape the lives of the poor, so that they ended up degrading rather than

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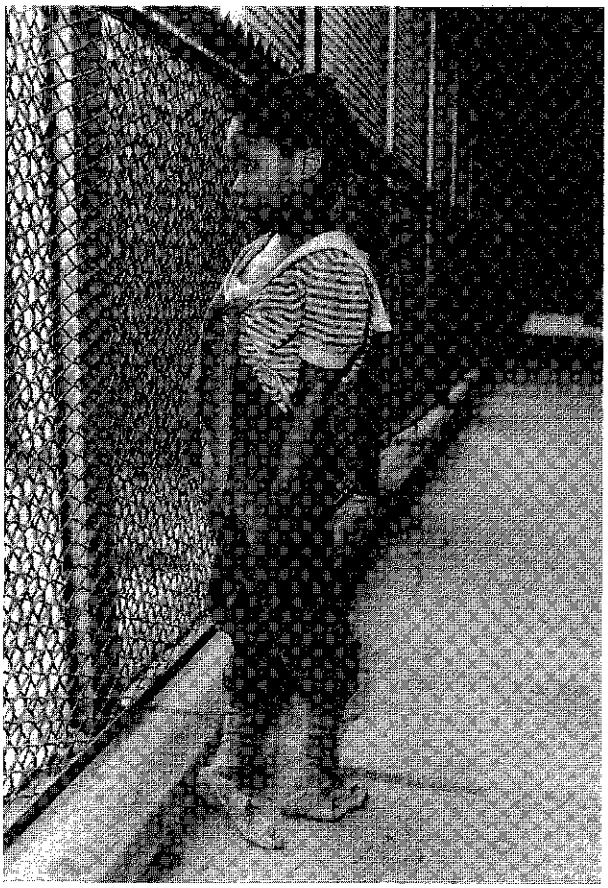
uplifting the people they were intended to benefit.

And because of the moral fervor with which the new ideas are invested—because these ideas give many of the Haves, especially among the elite, their sense of moral worth, uniqueness, and justification—it has become too painful to admit what abysmal harm they inflict on the Have-Nots. So, even as the underclass became rooted and grew and deepened in degradation, the answer the new culture has given has been further doses of what was causing the problem in the first place, like pumping more gas into a flooded engine.

Both liberations, the personal and the political, worked together to produce the explosion of welfare dependency that took place in the mid-1960s. Indeed, the power of culture, the power of the new beliefs and values that have hardened into today's orthodoxy, was so great that it overcame the economic and racial currents that were flowing strongly in precisely the opposite direction. After all, this explosion of dependency, which was disproportionate among blacks, was something that a booming economy and falling unemployment rate, along with the opening of society by the 1964 Civil Rights Act, should have forestalled. But just at that moment, culture changed.

For one thing, mainstream culture began to be intoxicated with its own sexual liberation—premarital, extramarital, you name it. If marriages broke up, as increasingly they did, that was okay, because individual, personal fulfillment was more important than family stability. As for the kids—we were telling ourselves that as long as we were happy, they'd be happy; they were resilient, adaptable; they'd do just fine in any kind of family structure.



Clinton's proposed reform continues to subordinate the interests of children to the supposed interests of their mothers.

We could hardly turn to the poor and say, okay, fellas, all this is fine for us, but not for you—*you* have to cleave to the straight and narrow. So we destigmatized for everybody much sexual behavior that formerly had been kept in check by strong social disapproval. In the case of the poor, in particular, we destigmatized getting pregnant out of wedlock, even for 15-year-olds, even for 13-year-olds. Indeed, the distinction between the respectable and the scandalous lost much of its power to govern behavior when so many stopped respecting respectability and stigmatizing its opposite.

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When it came to making social policy, the same new ideas prevailed. We saw no problem with lumping mothers of legitimate and illegitimate children together and giving an income to the latter with no questions asked. We saw no problem with abetting the proliferation of single-parent families, which the then-prevailing ideology said were just as good as any other kind. Today, of course, we have mountains of data proving conclusively that intact two-parent families are far and away best for children in every respect—emotionally, educationally, and in terms of later success in work and marriage.

As for the kids—we were telling ourselves that as long as we were happy, they'd be happy; they were resilient, adaptable; they'd do just fine in any kind of family structure.

Similarly, new beliefs from the political part of the 1960s' cultural shift contributed at least as much to the making of the welfare explosion as to most other features of the underclass. Take the key belief that the poor are, by the mere fact of their poverty, victims. Economic change has swept away their means of livelihood, goes this idea. Poverty gets inside them, filling them with feelings of futility and making them unable to take advantage of the real opportunities proliferating for the rest of society. These feelings, according to our new beliefs, lead them to self-destructive behavior and can only be changed by changing the economic circumstances.

Of course, telling the poor they are powerless victims of vast forces over which they have no control relieves them of the sense of personal responsibility and freedom we all need to summon the energy and initiative to change our fate. Further, when you tell people they are victims, the implication is that they've been damaged, that they're defective, unable to compete in the same ballpark with the rest of us. This implicit message (often an implicitly racist message, in my view) can only intensify the anxiety of those at the bottom and can make a life on welfare—or on drugs or drink, or of dropping out or crime—look like all they're capable of achieving.

That message is certainly contained in another baleful new idea of the political part of the cultural revolution: the idea that the victimized poor need reparations. In America, given its history, cockeyed Marxoid ideas of economic victimization got mixed up in the 1960s with an appropriate horror at the historical victimization of blacks to produce the belief that the state had to compensate the poor—and especially poor blacks—for their plight. That compensation, as Michael Harrington (among others) pronounced more than three

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decades ago, was welfare. In Harrington's phrase, we give it not out of charity but justice. With that formulation, another stigma against accepting welfare fell. It became no more than the recipient's due. Any shame attaches not to the welfare client but to the mainstream society that victimizes her.

But look at one key confusion embedded in this rationale. The reasoning here is fundamentally economic, energized with a powerful charge of race: people who are unjustly, through no fault of their own, closed out of an economy that allows their neighbors to prosper deserve their neighbors' support. One can certainly disagree with the factual underpinnings of this notion by pointing to the almost forty million net new jobs created in the last quarter-century, many of them unskilled or low-skill, and many of them taken by millions of immigrants who have realized the American dream out of some of the humblest of those jobs. Nevertheless, disagree or not, one expects that the welfare system produced by such a rationale will be more or less similar to the dole as it exists in other Western industrial countries.

It isn't. What makes the American welfare system unique is that the economic rationale for the dole was used to expand an existing New Deal program aimed at protecting not the unemployed, but children. Eligibility for the principal American welfare program, Aid to Families with Dependent Children, doesn't hinge on simple lack of employment. Instead, it depends above all on having a child, along with no job and (usually) no husband, since the original Depression-era program was aimed primarily at children whose coal-miner fathers had died. In fact, as the focus of the program shifted away from the children, the original name of Aid to Dependent Children changed to Aid to Families with Dependent Children in 1962.

The requirement that you have to have a baby and, normally, no husband to be eligible is what has made the U.S. welfare system so destructive. It makes the next generation an inseparable term of the welfare equation. This isn't to say that the dole in Europe has been benign for society or the economy. But even though other countries have had an entrenched welfare population for longer than the United States, they haven't had anything like our social pathology until recently. That's partly because only recently have some welfare benefits, such as priority for public housing, become linked to having a child. Even more, it's because welfare's economic package, by itself, is not enough to produce the social pathology of an underclass.

For that, it takes cultural changes like those that have taken place in America over the last generation. Only now that the stigma against illegitimacy has fallen in England, for example, or that English judges and probation officers have begun to look at criminals as victims needing leniency, has England begun to show the explosions in illegitimacy and brutal crime that Americans first saw thirty years ago.

Once the new American culture destigmatized illegitimacy and presented asking your neighbors to support your illegitimate children as a right instead of a scandal, it transformed welfare into a machine for perpetuating an underclass by abetting the least competent women—those who have developed the least initiative and formed the weakest values—in becoming the mothers of the next generation. Fathers, especially crucial to the socialization of boys, are crossed out of the family equation altogether, so the families welfare encourages are weaker still. If you set out to design the most defective families you could imagine, you'd be hard-pressed to surpass this system.

This is the crux of the welfare problem: welfare's intergenerational transmission of a culture of failure. Anyone who looks at underclass children, with so deplorable a legacy of poor health, emotional and intellectual stunting, and failure in school and in later life, would have to ask whose welfare is advanced by a welfare system that proliferates such dysfunctional families—families that

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pass along the underclass state of mind and way of life from generation to generation. If welfare were producing sturdy children who grew up to have useful and fulfilling lives, the fact that several million able-bodied women were being supported by their hard-working neighbors while they raised kids would be, however uncomfortable, infinitely less problematic. You could argue that a rich society could afford this price of giving children the upbringing they need to succeed. But when the very mechanism designed to further the welfare of children puts it so at risk that the children regularly grow up doomed to fail, that's not tolerable.

To succeed in changing this malign system, welfare reform has to start by redefining the issue, shifting the focus from mothers to children. Welfare is not an unemployment benefit for "victims of society," as we often unreflectingly assume. It isn't designed to help adults but to protect children. That's why it isn't paid to all possible "victims of society" but only to households with children.

The real issue is: Can welfare be said to protect children adequately, when so many of its beneficiaries are so poorly cared for and, in consequence, grow up to be such dysfunctional adults? Isn't there something mad about a system that helps create the very condition it is designed to assuage—that in the name of relieving childhood misery calls forth ever more of it by enabling unmarried, often teenaged, women who have no idea how to support or nurture or train children to bear and bring them up nevertheless? No wonder such a large percentage of American kids are classified as being in poverty: these are the children. Wouldn't the best way for American society to solve the problems of the underclass be to stop encouraging it to reproduce itself generation after generation?

Anyone who makes such a suggestion must confront head-on this specter haunting the Haves: that significant welfare reform will fill the streets with starving, homeless children. The answer is for welfare reform to create a system dedicated to nothing other than the welfare of children.

The bedrock of such a system would be communal hostels for needy kids—and their mothers. For the children, such hostels would provide structured, caring environments that would give infants and toddlers from the beginning the cognitive, verbal, and moral teaching that forms citizens with consciences and the ability to learn. By the time today's underclass children are in Head Start, and certainly by the time they start school, it's very late to begin teaching cause and effect, big and little, good and naughty, caring and cruel, sharing and selfish, and the whole array of cognitive and moral categories that it is the work of early childhood to learn, that families normally teach, and that underclass children don't adequately acquire. Without mastery of these categories, it is hard to think and therefore to learn.

The new communal hostels should be limited to children born out of wedlock and their mothers. Widowed or divorced mothers would be eligible for a cash welfare payment, as at present. The point would be to make a distinction between women who have made a public, legal commitment to the ideal of a stable family and those who have borne children with no such declaration of responsibility. Because what happens at the periphery of society helps define the norms for those at the center, a society that wants to encourage the strong families that are best for children has to make such distinctions.

Won't the new system stigmatize these mothers? I'm afraid so, but that is part of the point. When the state fulfills its responsibility of taking care of indigent children, it has to do so without condoning (and certainly without celebrating) the behavior of the mothers who, by bringing them into the world with no prospect of being able to support them, have disadvantaged them from the start. The new system aims to care well for the children in its charge while discouraging women both morally and economically from bearing children at the cost of the rest of the community.

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The communal hostels will have rules of conduct for the mothers who live there, partly because the hostels should offer something very different from the life of license that the current welfare system offers young women, as it sets them up in their own apartments and gives them more purchasing power than a minimum wage job (up to $27,000 worth in New York City). But since the hostels focus on the children rather than the mothers, the rules are designed, above all, to ensure the order and structure children need.

In the same vein, the hostels will require mothers to take daily workshops on child care and child development to learn some of the basic truths about child rearing that young underclass women, not surprisingly, often don't know: that babies cry because they are needy, not because they are "bad," or that children need to be talked to and responded to—not ignored and not hit—if they are to grow up able to function as members of society. If a mother asks her neighbors to support her and her child, surely her neighbors can require her to take at least this much responsibility in return.

Mothers who don't want to conform to this system are free to take their children and leave. If they can support them, fine. If they can't, if the children are neglected or endangered, then the state, as it does now, will take them away. Unlike today's practice, however, such children should be cared for in group foster homes far removed from the influence of the underclass neighborhoods where they were born. To avoid the bureaucratic callousness, meanness, and lack of accountability that might make such institutions harsh or cruel, they should be run not by government agencies but private charities, including the religious ones that have proved themselves so effective at humanely helping the unfortunate.

When the very mechanism designed to further the welfare of children puts it so at risk that the children regularly grow up doomed to fail, that's not tolerable.

I want to stress once more that the goal of this entire system isn't only to discourage unmarried women unable to support babies from having them. No less important for healing the pathology of the underclass, the system aims to ensure that the smaller number of such babies who will still be born despite all of society's discouragement grow up with a fair chance of becoming happy and productive citizens. However sweeping the changes I am suggesting may seem, they have to be weighed clearsightedly against the dreadful reality of the present system, which consigns millions to misery and failure, condemning them to grow up with so many human excellences unawakened, lost to themselves and to society. ■

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Government by Decree

The High Cost of Letting Judges Make Policy

Ross Sandler and
David Schoenbrod

State and federal judges have seized control of vast areas of New York City policy, through a process that threatens both democracy and good government. Solutions that don't weaken citizens' legal rights are not hard to find.

When judges intervene in New York City policy, their decisions can take on a life of their own.

For example, in 1980, the city and state agreed to a 47-page federal court order in *Jose P.* v. *Ambach*, a case brought under a 1975 federal law guaranteeing educational equality for the handicapped. Most observers agree that the special education system that grew out of this case is deeply flawed: it mislabels thousands of children, segregates many in dead-end classes, and uses legions of psychologists and social workers to administer repetitive evaluations that accomplish little but cost a great deal. Teachers refer students for special education in order to get discipline problems out of their classrooms, while principals refer poorly performing students to special ed to eliminate their test scores from the school's average. Special ed is a very large, gold-plated cog in a rusty educational machine, with an annual price tag of $1.67 billion, or three times more per pupil than ordinary education. And the city and the Board of Education can do little to change things, because they are bound by the terms of the decree.

Another example: in 1981, New York City settled a lawsuit brought by the Coalition for the Homeless, agreeing to a court decree that requires the city to provide free shelter for all homeless men. Result: since the late 1970s, when *Callahan* v. *Carey* was filed, the number of homeless single adults seeking shelter from the city has grown from about two thousand to seven thousand; the city spends between $18,000 and $20,000 per year sheltering each of them. Despite these expenditures, most observers agree that conditions in the shelters are terrible. But New York's ability to make changes is constrained by the demands the decree places on the city's limited resources.

Every recent New York mayor has discovered that his ability to change city policy is sharply curtailed by such judicial decrees. Every mayor has damned decrees for restricting choice, distorting priorities, and frustrating reform. But every mayor, including Rudolph Giuliani, has authorized the city to consent to more of them.

Courts must sometimes intervene in policymaking to protect citizens' legal rights. But the city, state, and federal governments and the courts should reform the process to achieve a balance between the rights of plaintiffs and the need for a flexible, politically accountable city government.

The process by which these decrees are created is simple enough: a lawyer or advocacy group brings a suit on behalf of an aggrieved individual

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or class of people, claiming that the city has violated their rights, usually under federal or state statutes or regulations. If the plaintiffs prove the violation, the court can impose a remedy of its own design. More typically, the plaintiffs and the governmental defendants negotiate a settlement and consent to the court entering a decree requiring the government to take specific actions. Since these actions take time to complete, the orders typically set out milestones against which the court can measure the city's progress in complying. Judges, who have many other duties, usually leave management of the decree to the parties or to court-appointed special masters or advisors.

The final product of such a process is a binding blueprint enforced by judicial power—a unique, custom-designed management protocol that channels a local government's budget and resources, overriding the political process by which decisions about public policy are normally made. In principle, decrees are supposed to be lifted when the city complies. In practice, they can be interminable. In the most difficult areas of public policy, local governments rarely achieve sustained compliance sufficient to wipe the slate clean.

Since the ink dried on the consent order in *Callahan*, for example, then-Mayor Edward I. Koch has been reelected twice and defeated, Mayor David Dinkins has come and gone, and Rudolph Giuliani has moved into Gracie Mansion. Former Governor Hugh Carey has moved to Florida, and homeless plaintiff Robert Callahan has died. Callahan's attorney, Robert Hayes, now lives in Maine. There have been six commissioners of the Human Resources Administration and two commissioners of the new Department of Homeless Services. Countless studies and reports on homelessness have reflected an evolving public understanding of the issue. But city officials remain locked in *Callahan*'s legal embrace, apparently unable either to meet its terms or to retire from the field. The court continues to manage the city's shelter system in exquisite detail, right down to the number of toilets and showers each shelter is required to have.

If city officials achieved full compliance with court decrees like the one in *Callahan*, the orders would be lifted. Why is full compliance such an elusive goal? City officials almost never intentionally defy a court order, because they would have much to lose by making an enemy of the court. If the city can convince the court that compliance is impossible, it will win a modification.

The failure to comply generally results from a combination of two factors. First, courts often underestimate the sheer magnitude of the tasks demanded. The courts that approved *Callahan* and *Jose P.* could not have anticipated the enormous growth in the number of homeless men and students deemed handicapped—growth due in part to the benefits conferred by the decrees. Second, political support may not be sufficient to ensure that the decree is followed; citizens' priorities may differ from those of the court. Courts view these reasons, however, as akin to a lack of will power.

The court, by its order and the enforcement muscle behind it, theoretically supplies the necessary will power. But even judicially supplied will power is often not enough. City officials cannot unilaterally impose the court's will on the many components of the city, state, and federal governments that usually must work together to take any significant action.

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Indeed, the attempt to do so raises serious questions about whether the process, as it currently exists, is compatible with democracy.

An Undemocratic Process

Consent orders do have their roots in the democratic process: they are usually based on an underlying statute, duly passed by Congress or the State Legislature, mandating that the city accomplish certain goals. Often, however, the statute does not specify precisely how the city is to do so. The Federal Government, for example, directs the city to cease dumping sludge from its sewage treatment plant into the Atlantic Ocean; the city has to plan, site, build, and operate an alternative disposal system. The state tells the city that homeless families must be placed in appropriate housing immediately on application; the city has to allocate funds, hire personnel, and secure housing for homeless people.

To ensure that their goals are met, the federal and state governments often write their statutory mandates to make them enforceable in court. Plaintiffs—environmental groups or homeless people—sue. The city often fights for years. Plaintiffs, however, frequently prevail, especially under statutory or regulatory mandates designed to make liability open-and-shut. Once it has been established that the city is liable for a violation—or sometimes before—officials often choose to bargain for a consent order specifying a remedy that incorporates the best deal it can negotiate with the plaintiffs.

This way of making and enforcing laws undermines democratic accountability in several ways:

• **Shifting of costs.** By requiring local governments to pay for the benefits it mandates, Congress or the State Legislature frees itself from the need to take account of the costs of its policies. Legislators in Washington or Albany can take credit for bestowing boons on voters but let the blame for the costs fall upon city officials. Congress bans asbestos in the schools not because its members care more about children's health than parents or local school officials do, but because members of Congress can enjoy the political benefits of promising to remove health risks without the political liability of levying the taxes to

United Press International

John R. Block

and legality of bombing and strafing by the air force are among

Continued on Page A9, Column 1

Judge Tells New York to Supervise Its Foster Children Beyond Age 18

By SARA RIMER

A State Supreme Court justice, ruling in a New York City case, yesterday upheld efforts by advocates for the homeless to enforce supervision for thousands of young people between the ages of 18 and 21 who leave foster

Although state law requires supervision under the foster

Justice Wilk found that these six people had been discharged from foster care by the city before they were ready.

According to the lawsuit that led to

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pay for them. Mayor Koch has admitted that as a congressman he always voted to impose requirements on cities because when someone else must foot the bill, "the sky is the limit."

The same posturing takes place at the state level. Acting under the direction of the legislature and governor, the commissioner of the New York State Department of Social Services, Cesar Perales, issued a regulation requiring that cities house homeless families immediately upon demand. He rebuffed New York City's complaint that it was not possible to comply. Later, as a deputy mayor in the Dinkins administration, Perales found he could not comply with a decree enforcing his own regulation. Though he complained that his regulation had been misinterpreted, the irony did not motivate either the legislature or the Department of Social Services to amend it or to start paying the full cost of compliance. Meanwhile, a state Supreme Court justice has relentlessly enforced the regulation, holding city officials, including Perales, in contempt of court.

- **Shifting of responsibility.** Since enforcement of policies is left to the courts, Congress and the legislature have little reason to reconsider their handiwork in light of changing conditions. Legislators effectively leave the field, delegating management of government programs to judges, who constitutionally lack the capacity to choose between various policy options.

- **Artificially setting priorities.** A court order elevates a particular policy above what might otherwise be an equally or more urgent priority. The City Council, for instance, might debate whether the City of New York should use its limited capital funds to build schools or a sewage sludge treatment plant. A court cannot engage in such a debate. Its order transforms the sludge plant from an option into a priority, placing it at the top of the budgetary list. Because courts must take the cases that come their way, no one has the power to review whether the resulting allocation of the city's resources makes sense.

- **Going beyond the law.** Once a city consents to particular terms, court rules make it extremely difficult to change the order—even if those terms were not actually required by the law. Judges treat consent decrees (in contrast to those imposed without consent) as contracts to end litigation, akin to a settlement in a private dispute. In this view, it would be unfair to alter the contract except under strictly controlled circumstances.

Judicial decrees bind future administrations, so voters cannot change policy through the normal means of voting out incumbents.

The principle that consent decrees are binding regardless of the underlying law prevails in the federal courts under a 1992 U.S. Supreme Court decision. In 1979, Suffolk County, Massachusetts (which includes Boston), agreed to replace an old, inadequate jail with a new one in which every prisoner would have his own cell. Thirteen years later, the county asked that the court modify its decree to allow two prisoners in a cell, since the U.S. Supreme Court had subsequently made it clear that double-bunking was not unconstitutional and Boston's prison population had greatly exceeded expectations. The Supreme Court ruled that the modification could not be made unless the changed circumstances were unforeseen. The Court believed that any less rigid rule would dissuade plaintiffs from negotiating settlements.

- **Depriving voters of their voice.** These decrees bind future administrations, so voters cannot change policy through the normal means of voting out the incumbent. In some cases, administrations deliberately use decrees to impose their preferred policies on their successors.

As a mayoral candidate in 1989, David Dinkins had promised to provide domestic partners of city employees the same health benefits that spouses of employees receive. He was unable to make good on his promise, because the City Council refused to authorize

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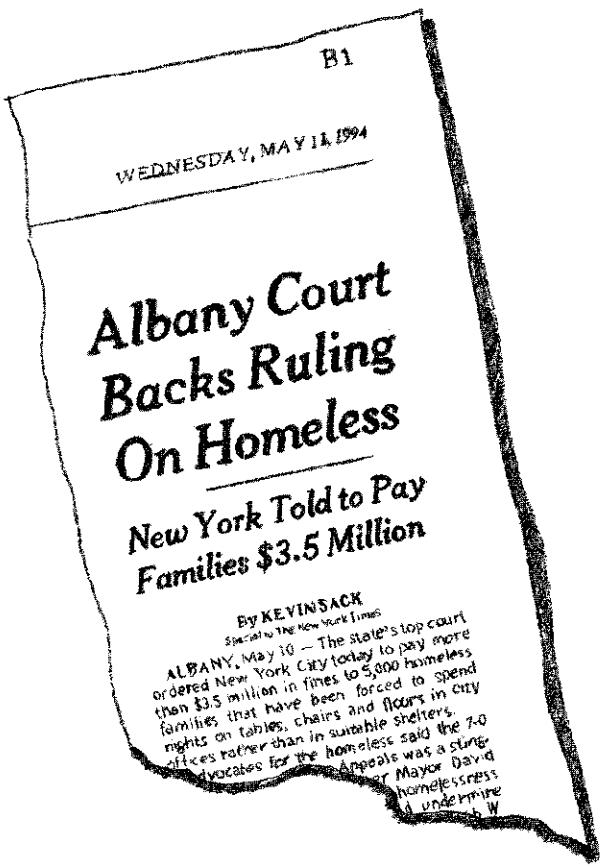
costly benefits for the large number of (primarily heterosexual) domestic partners. The Lesbian and Gay Teachers Association filed a lawsuit claiming the city was required to provide such benefits under various human rights laws and constitutional provisions. The city vigorously disputed the claim, but before the courts decided who was right—and just a few days before the 1993 mayoral election—Dinkins consented to a state court order binding the city in perpetuity to provide benefits to domestic partners and their children.

Why the City Consents

If consent decrees are so problematic, why does the city agree to them? Consider the incentives for the various parties to the decrees. City officials, as defendants in lawsuits, face an intertwined political and legal problem. They may well agree with the plaintiff's objectives but are branded in court as violators. A consent order allows officials not only to gain time for compliance, but also to transform themselves from lawbreakers into law implementers. That a decree will bind their successors hardly matters to them. Individuals named as plaintiffs (homeless people, prisoners, or handicapped children, for example) usually lack the capacity to manage the litigation. Their attorneys have the real power and also the real stake—perhaps in court-awarded fees, but certainly in reputation and power, which they hope to wield for ends they believe good. An attorney who establishes a violation earns a favored place at the table of government. A deputy mayor or commissioner must sit down and negotiate an order, which becomes not only policy but law that the plaintiff's attorney can enforce by invoking the court's power to cite officials for contempt.



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WEDNESDAY, MAY 11, 1994

Albany Court Backs Ruling On Homeless

New York Told to Pay Families $3.5 Million

By KEVIN SACK
Special to The New York Times

ALBANY, May 10 — The state's top court ordered New York City today to pay more than $3.5 million in fines to 5,000 homeless families that have been forced to spend nights on tables, chairs and floors in city offices rather than in suitable shelters. ... advocates for the homeless said the 7-0 ... Appeals was a stinging ... Mayor David ... homelessness ... undermine ...

The judges themselves are parties to the decree in the sense that it becomes a prominent work product. Judges sometimes get so wrapped up in their own decrees that appellate courts have to remove them on the ground that they have lost the requisite judicial detachment. The loss of detachment is usually less overt, so it goes uncorrected. In the litigation enforcing the Perales regulation on homeless families, the Dinkins administration demonstrated dedication, good faith, and hard work as well as misjudgments, failures, and reversals of policy. But the trial judge, in imposing contempt fines on four administration officials, emphasized the primacy of her order. She wrote that she could not countenance noncompliance to allow the city time to redesign its emergency placement systems or because the City Council opposed one remedy, housing families in commercial hotels.

With plaintiffs suffering intolerable conditions, attorneys seeking a place at the table of government, city officials stung by being branded lawbreakers, and judges armed with the contempt power, negotiating a consent order can seem like the safest response. Each side can give the other what it wants. The defendants get a schedule of compliance they can live with; they may also get relief from particularly onerous legal requirements that the plaintiffs see as less important. The plain-

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tiffs' attorneys get an ongoing say about city policy; they become sidesaddle commissioners. The judge gains prominence by harnessing the court's power to solve a public controversy.

But a deal that is good for these players may in time harm the city. Even when a decree has unanticipated harmful consequences, it is very difficult for future administrations to undo the deal. Unless all of these players agree or the city complies completely—neither of which is likely—the decree can be terminated entirely only by amending the underlying statute or constitutional provision. So, as Richard Briffault of Columbia Law School has pointed out, consent decrees are the functional equivalent of constitutional amendments or statutes, though they have never been approved by a legislature. Such inflexibility is not automatically justified on the basis that the decree protects rights. Consent decrees also frequently decide matters of policy, setting out in intricate detail how rights are to be implemented. And they regularly deviate from the rights that gave rise to liability because the plaintiff's attorney and defendants think, for their own reasons, that the change makes sense.

Despite all these problems, judges sometimes have legitimate reasons to intervene in city policymaking. The most compelling is the need to uphold constitutional rights, whose fundamental purpose is to protect individuals from the excesses of democratic decision-making. Most injunctions against the city, however, do not deal with constitutional rights. Rather, they enforce rights created by Congress, the State Legislature, and federal and state administrative agencies.

The federal and state governments also have legitimate reasons to regulate cities—for example, to prevent them from discriminating against nonresidents who cannot vote in city elections, and to ensure that certain laws and policies are uniform throughout the nation or the state.

Given these considerations, how can judges and mayors ensure that those with legitimate complaints against the city can have their day in court, while at the same time safeguarding democratic accountability and good government? We propose six actions the courts, the legislatures, and the city should take: limit the duration of decrees, involve Congress and the State Legislature in the decrees arising from laws they have passed, prohibit unfunded mandates on localities, be cautious in consenting, open the enforcement of decrees to public scrutiny, and reconsider existing decrees.

Impose Term Limits

Every law student knows of the "rule against perpetuities," which invalidates trusts that let the deceased rule forever from the grave. Yet judicial decrees continue to bind the city even after the original plaintiffs are dead or disinterested and defendants are no longer in office. Since the mid-1980s, the city has sought, and usually received, a clause in each decree terminating it if compliance is achieved. But full compliance is rare.

Judges sometimes get so wrapped up in their own decrees that appellate courts have to remove them on the ground that they have lost the requisite judicial detachment.

All decrees against cities, whether consented to or not, should have a definite ending date, measured by the political calendar rather than the calendar of compliance. Whether or not the city ever quite makes it to the ultimate goal, the order should end at some point, and the issue should return to the political and electoral marketplace. Once the term limit is reached, the decree would end. The prior judgment of liability, if any, would endure, but the question of how to remedy the wrong would be reopened for further negotiation or litigation.

How long a decree should last depends on the circumstances. But one accepted measure of government time is the four years allocated to an elect-

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ed administration. If a decree ended with the term (or terms) of the administration that consented to it, the policy choices it reflects would be subject to electoral validation. Courts should shift the burden to the plaintiffs to demonstrate that any additional time beyond the electoral cycle is necessary because of the peculiar characteristics of a case.

Under a legal doctrine known as equitable discretion, judges have the power to include term limits in decrees. They should use that power, because they have a duty to consider the impact of the decree on the public. Endless decrees undermine the public's basic right to hold their officials accountable and frustrate the need for a flexible government. The court should insist upon a firm ending date, even if the city is willing to do without one.

Bring in the Legislature

Even if the city has unquestionably violated the law, deciding how to remedy the wrong often involves politically charged questions of policy. Courts generally let local governmental defendants take the lead in proposing the terms of a decree. But that involves only the executive branch, even though the legislative branch has the last word on policy and budget. Under traditional legal doctrine, courts have the authority to solicit legislative assistance in designing remedies. They should use this authority more often, especially since they are usually enforcing rights created by the legislature.

Courts have followed this course in some cases. After finding local governments throughout New York State in violation of a statute mandating that all real property be assessed at full value for tax purposes, the New York Court of Appeals (the state's highest court) authorized local governments to remain in violation for 18 months while state and local legislators considered remedies. Complying with the mandate raised a host of policy concerns, not the least of which was disrupting the expectations of taxpayers. In the end, the legislature eliminated the mandate.

Giving the State Legislature time to legislate the remedy might produce three results. First, if convinced that the right is worth its cost, the legislature might actually fund a remedy. Second, it might clarify, rescind, or reduce the right, as in the real property tax assessment case. Third, it might enact nothing.

The first two possibilities are the happiest because they leave policy choices to elected officials who are accountable for them. The third possibility leaves those choices to the judge. While a judge cannot interpret the current legislature's inaction as diminishing rights conferred by a past legislature, he might conclude that the legislature's unwillingness to help reduces the city's likelihood of successfully complying with an ambitious injunction. The judge could take that factor into account in defining remedies and establishing milestones.

End Unfunded Mandates

One way to make the federal and state governments more accountable would be to bar them from imposing mandates for which local governments must pay with their funds. In 1993, the U.S. Conference of Mayors once again called on Congress to stop enacting unfunded mandates. In response, the Senate Governmental Affairs Committee is marking up a bill to relieve cities and states from complying with the nearly two hundred unfunded federal mandates. But Congress has little incentive to pass this legislation.

New York City, however, has a real chance to protect itself from unfunded state mandates. The state constitution requires that on Election Day in November 1997, voters will decide whether to call a state constitutional convention. New York City should join with municipalities throughout the state to urge an affirmative vote, then use the convention to enact a prohibition on unfunded mandates. Such an amendment is long in coming: a staff study for the 1938 New York State constitutional convention highlighted the need for protection from unfunded mandates.

In 1993, Governor Mario Cuomo appointed a Temporary State Commission on Constitutional Revision, which again identified unfunded mandates as a potential issue. Professor Briffault, in his briefing paper for the commission, notes that 14 state constitutions have such prohibitions. California's constitution,

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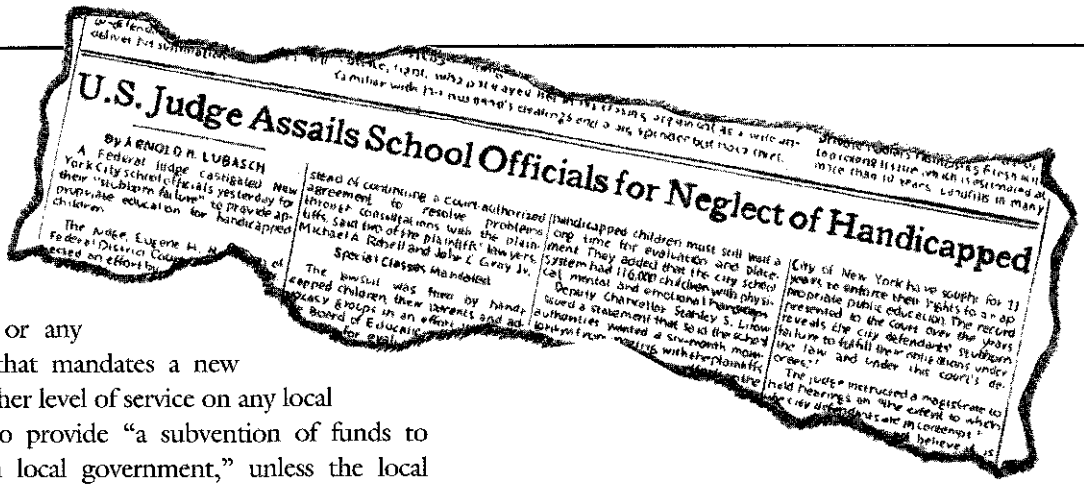
U.S. Judge Assails School Officials for Neglect of Handicapped

By ARNOLD H. LUBASCH

A Federal judge castigated New York City school officials yesterday for their stubborn failure to provide appropriate education for handicapped children.

The Judge, Eugene H. ... Federal District Court, ... ordered an effort by ...

... instead of continuing a court-authorized ... agreement to resolve problems through consultations with the plaintiffs, said two of the plaintiffs' lawyers, Michael A. Rebell and Jeffrey L. Gray Jr.

Special Classes Mandated

The lawsuit was filed by handicapped children and their parents and advocacy groups in an effort to ... Board of Education ... for evaluation and placement. They added that the city school system had 116,000 children with physical, mental and emotional handicaps.

Deputy Chancellor Stanley S. Litow issued a statement that said the school authorities wanted a six-month moratorium with the plaintiffs ...

... handicapped children must still wait a long time for evaluation and placement. They added that the city school system had 116,000 children with physical, mental and emotional handicaps.

Deputy Chancellor Stanley S. Litow issued a statement that said the school authorities wanted a six-month moratorium with the plaintiffs ...

... City of New York have sought for 11 years to enforce their rights to an appropriate public education. The record presented to the court over the years reveals the city defendants' stubborn failure to fulfill their obligations under the law ... and under this court's decrees.'

The judge instructed a magistrate to hold hearings on the extent to which ... city defendants are in contempt ... believe ...

for example, requires the legislature or any state agency "that mandates a new program or higher level of service on any local government" to provide "a subvention of funds to reimburse such local government," unless the local government itself requests the mandate.

New York State's constitution, by contrast, allows the legislature to make laws dealing with any topic for which it can articulate a state concern. A constitutional amendment would add a second, more practical requirement: if the state is to dictate policy to local governments, it must pay for the privilege. The amendment should be drafted to require the legislature to take fiscal responsibility for existing as well as new mandates.

Be Cautious in Consenting

Whether to consent to a decree is always a judgment call. It is not possible to lay down a rigid rule on strategy, especially one involving the ultimate bargain to end litigation. Nonetheless, it is worth restating the obvious reasons why the city should be cautious in consenting.

Mayors should not ordinarily consent to the entry of a decree if there is any real issue about whether the city is in violation of the law. The city should go to trial, and if it loses, it should appeal. It may win at either level. Moreover, if the city loses on appeal, the rule that binds it will bind other cities, giving New York allies in trying to persuade the legislature to reconsider.

If the city loses on the issue of liability and the plaintiffs offer a decree that the city finds acceptable, the city should tell the court that it does not object to its entry, rather than affirmatively giving its consent. The difference is important: by not consenting, the city can more easily, under court rules, obtain a later modification to accommodate changing circumstances.

Open the Process

Once a judge signs a decree, enforcement becomes, in effect, the property of the plaintiffs' attorneys. Under the *Jose P.* decree, for instance, attorneys for the Board of Education report to the plaintiffs' attorneys at closed meetings scheduled every two weeks.

Such enforcement regimes hide the results from the public and turn public programs into private fiefdoms. They avoid sunshine laws requiring open meetings and public notice. If an industry had such special access to the government officials that regulate it, there would be loud complaints, and rightly so. Private attorneys and advocacy organizations, whatever their good intentions, should not have the power to control public policy in secret.

The formulation and enforcement of decrees should be open for public participation. Courts should require public notice and open meetings. Reports should be widely distributed and written in plain English. Formal participation by nonlitigants should be made easy. Interested groups not represented at the liability stage of the litigation should be able to participate formally during the remedy stage.

Reopen Existing Decrees

In dealing with the existing judicial orders under which the city now labors, officials should go on the offensive, seeking to modify the decrees rather than just defending their failure to comply.

The case enforcing the Perales regulation shows why. In 1992, the city and four high Dinkins administration officials were brought up on contempt charges for failing to house homeless families immediately. While acknowledging violations, the city argued that it should not be held in contempt because it had tried in good faith to comply. In particular, it noted that between 1984 and 1992, it built more housing for homeless families than the Federal

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Government built throughout the entire United States and that it put homeless families at the front of the queue for placement in public housing. But the city's efforts had perverse results. Families that were living with relatives while waiting for housing took to the streets to jump the queue. The city ended up with more homeless families than it expected. Nonetheless, the trial court held the city and the officials in contempt. In May 1994, the Court of Appeals affirmed the decision, stating that the "feasibility of compliance . . . is not before us at this time, nor are intractable or Herculean municipal efforts of a financial or political variety."

Private attorneys and advocacy organizations, whatever their good intentions, should not have the power to control public policy in secret.

The city should force the courts to deal with such realities by moving to modify the decrees instead of waiting to be cited for contempt. The city will have to show that unforeseen circumstances justify the requested modifications. In the homeless family case, the perverse effects of the city's efforts to comply and the upsurge in the number of homeless families seeking shelter should meet that test.

The plaintiffs will undoubtedly respond that the changes do not warrant revision. They may argue that the city can simply put more resources into providing housing or other benefits. To answer this argument, the city should ask judges to broaden their focus from the decree in the case before them to the cumulative burden of all the decrees against the city. When a judge considers one decree at a time, the orders almost always look feasible. The expense is invariably small relative to the city's overall revenues. Plaintiffs in any one case can argue that the city could satisfy all its requirements if it cut "frills" or raised taxes.

The picture changes when each decree is placed in the broader context of all decrees and mandates imposed upon New York City. A preliminary Giuliani administration study shows that complying with the ten largest decrees and mandates uses fully 26 percent of the city's tax revenues. And the city has many other demands upon its revenues: police, fire protection, sanitation, drinking water, debt service, education, roads, and so forth.

To accompany its motions to modify the many consent decrees against it, the city should prepare a Consent Decree Cumulative Data Book detailing the number of decrees and mandates, their age and total cost, the other fiscal burdens that the city cannot avoid, and the administrative burdens and inflexibility imposed by the decrees. The book would demonstrate circumstances unforeseen when all the older consent decrees were entered: the city's fiscal crisis is no longer viewed as temporary, the decrees have lasted far longer than anticipated, and their cumulative effect undercuts the city's ability to meet future obligations. The Data Book would also be useful in winning more realistic terms in new decrees.

Plaintiffs would still get a remedy. But instead of being locked into detailed protocols designed many years ago, the city could propose new ways to protect plaintiffs' rights. Under established legal doctrines, the new remedy could allow violations of plaintiffs' rights to continue only when they are minor relative to the hardship to the city and public.

Individual motions to modify particular decrees would ultimately be decided in the appellate courts. The courts could not responsibly say that the city must give first priority to each and every one of its obligations; they would have to allow the city some flexibility.

In December 1981, then-Mayor Koch delivered an address at the annual conference of the National League of Cities in which he called for lifting the "mandate millstone" from the cities. Since then, mandates and the resulting court orders have become more numerous and burdensome, and government at all levels has become less accountable. The reforms we have suggested would make government more responsive and responsible, while ensuring that individuals claiming legal rights can have their day in court. ■

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Setting Schools Free

The Charter School Movement in Public Education

Kathleen Sylvester

If teachers and principals are frustrated by bureaucratic constraints, why not let them start their own independent public schools? The idea is called charter schools, and it is one of the most promising education reforms today.

In January 1992, the San Diego school district gave Loyal Carlon a key to an abandoned 1950s-era elementary school in one of the city's poorest neighborhoods and told him he could start his own public school. This bold experiment came at the urging of a local bank official, who had suggested to the school board and the teachers' union that they allow one school in the district to operate free from the central office bureaucracy and union rules to see if it could produce better results for students.

Darnall E Campus, as the school is known, opened in September 1993. With a one-time waiver from the union, Carlon was able to hire teachers who believed that traditional approaches to learning had failed their students and were eager to invent something better. Carlon says he and the teachers got "all the latitude we needed" from the local school board, which allowed them to control the curriculum, decide which books to use, and even order their own supplies rather than waiting months for the district's central purchasing to do it for them.

But several months into the experiment, the teachers' union balked, and the district became hesitant about extending the school's autonomy indefinitely. The union wanted to make the waivers from its rules a start-up provision only. The staff at Darnall E balked, too. "After controlling their own destinies, no one wanted to go back," says Carlon. Fortunately, they didn't have to. The California Legislature had just passed the state's charter school law, and the teachers of Darnall E Campus applied for charter status. In September, as it was opening, their school officially became one of California's first charter schools.

The idea of charter schools is one of the most promising education reforms currently being debated. Although the details of charter school proposals vary widely and many issues remain unresolved, the basic idea is that organizations outside the public school system should be allowed to apply for a charter to open their own public schools and have the freedom to make their schools innovative and distinctive.

The band of reformers at Darnall E has seized the opportunity this freedom affords. The school groups children in developmental "clusters" rather than strictly by age. Teachers spend three hours a week

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planning, instead of the 45 minutes that the school board allows in other schools. Teachers work in teams of three so they can help children in small groups. The school has a day-care center to make things easier for working parents and offers English lessons for immigrant parents at night. And the school is open year-round. "There's nothing sacred about June," Carlon says.

Charter schools attempt to reform education one school at a time. They will attract students from other schools, putting pressure on those schools to improve.

While it is too soon for documented results in the form of test scores, anecdotal evidence of the school's success is mounting. Parents from surrounding neighborhoods want to send their children to Darnall E; teachers are enthusiastic; attendance is strong; and the school's five hundred pupils are described as happy, productive, and self-motivated. And this is a school whose students have special needs: some 90 percent of them come from welfare families, and 60 percent are non-native English speakers in a student body that is 45 percent Hispanic, 25 percent Asian, and 18 percent African-American.

Token Schools?

Despite his success, Carlon is worried. He fears that in a few years, when San Diego school officials are asked about charter schools, their response will be, "Yeah, we have one." If Darnall E becomes San Diego's only charter experiment, Carlon will take little comfort in being the principal of a token successful school.

That is the fundamental dilemma that charter school advocates now face. Howard Fuller, Milwaukee's school superintendent, warns that the charter movement will fail if it results in only a handful of good schools across the country. "We know how to create individual schools that are good," says Fuller, "but how do you reform a whole district?" Or, for that matter, the entire U.S. educational system?

Yet the idea of charter schools is so attractive precisely because it attempts to reform education one school at a time. In a nation where the public education system has stubbornly resisted wave after wave of reform—from standard-setting to restructuring to infusions of federal dollars—the charter school movement offers hope in a new form: the power of the market. Successful charter schools will attract students from other public schools, putting pressure on those schools to improve. As Ted Kolderie of Minnesota's Center for Policy Studies puts it, charter schools have "withdrawn the local school district's exclusive franchise on public education." And because charter schools are public schools, they avoid many of the practical and political problems associated with vouchers, another market-based reform.

If charter schools are to be successful on a wide scale, they must prove their worth. The first charter schools will be judged by the parents, students, and communities they serve. If these "customers" are satisfied, the schools' charters are not likely to be revoked. But in a nation where citizens are increasingly demanding accountability from government, charter advocates must verify their results by objective standards—improved test scores and the like—or their movement will not progress.

Varying Models

Charter school advocates have identified nine essential elements of the reform (see box). But states that have passed charter school legislation have implemented the idea in various ways. The most important variation involves chartering authority. Georgia passed legislation that allows only existing schools to

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become charter schools after a majority of the faculty, staff, and parents approve the idea. But the Georgia law gives local school boards absolute veto power over charter proposals. Massachusetts, by contrast, has passed the strongest bill to date. It bypasses local school boards entirely, giving the state's education secretary the authority to approve charter applications from businesses, parents, teachers, and colleges.

States allow charter schools varying degrees of autonomy. In Massachusetts, Michigan, and Minnesota, charter schools are legally autonomous entities. In Georgia, however, they remain under the control of the local school board. Kolderie maintains that charter schools can succeed only when they are fully autonomous. "In return for the autonomy, they accept real accountability for student performance," he says. "That's the essence of the 'charter' idea. Without that, it isn't really a charter proposal."

Others suggest that while complete autonomy is desirable, it may create difficult burdens for struggling charter schools. Charter school founders, most of whom are teachers, may not have the administrative skills to deal with matters such as food service, transportation, and maintaining the

The Essentials

Members of the Minnesota State Legislature, including Senator Ember Reichgott Junge and Representative Becky Kelso, have identified the following principles as crucial to the idea of charter schools:

1 **The school may be organized, and owned and run, by any of several parties. No one, however, has a *right* to set up a charter school.** The organizers may be teachers, parents, perhaps a museum or university, or some other entity. They must receive an affirmative approval by a responsible public body for the particular school they propose to operate.

2 **The organizers may approach more than one public body for their charter.** Traditionally only the local board could offer public education. With a charter law the state opens this opportunity to others: to the state board of education, a higher-education board, a city council or county board, or some new entity created just for this purpose.

3 **The school will become a legal entity.** The law may provide for the school to choose any form of organization available under general state law. As an entity, the school will have its own board. Site-based management becomes real. The teachers will belong to the school. If employees, they will have full rights to organize and bargain collectively, but the bargaining unit will be separate from the district.

4 **The school is public.** It is chartered by public law to carry out a public purpose under contract to a public authority. There can be no religious instruction, no tuition, no selective admissions, no discrimination. Health and safety laws must be followed.

5 **The school accepts accountability for its results.** It is chartered for a limited term. The objectives for student performance are agreed on up front. Renewal depends on performance, and the contract may be terminated for cause.

6 **The school gets real freedom to change.** Because it accepts accountability for its results, the charter school is normally exempted from most state regulations and statute law that govern districts.

7 **It is a school of choice.** The school is accountable in a second way. Students and teachers are there because they want to be there.

8 **The full amount of state funding associated with each student is paid to the school directly.** This amount is roughly the average statewide per-pupil amount, or the amount in the district from which the student comes.

9 **Teachers will be protected, and will have new opportunities.** Teachers may take leave from the district to teach in a charter school. While in the school they retain their seniority, benefits, and ability to return. —*KS*

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school's physical plant. "What these schools are about is teaching and learning; let the school district fix the roof," says Eric Premack, a consultant to California's charter schools.

John Elwell, director of the Manhattan Institute's Center for Educational Innovation, warns that charter legislation may create "empowerment in a vacuum" if it withdraws administrative support while freeing schools from regulation. To counter this problem, the center and other organizations are setting up networks of innovative schools that can pool their managerial skills and resources. Colorado has a League of Charter Schools through which educational innovators share the services of realtors, lawyers, and accountants and advice on managing janitorial, food, and transportation functions.

Confronting Obstacles

Proponents have also learned to counter the many objections raised by defenders of the status quo. "The first thing we heard was that this was a nose in the door to vouchers," says Minnesota State Senator Ember Reichgott Junge, who sponsored her state's charter legislation. To the contrary, she argues, "charter schools are an incentive to embrace the public schools; vouchers are an incentive to abandon them."

In Colorado, charter school supporters were accused of elitism, even though the state's charter proposal favors schools catering to at-risk students and ensures equal access to all the new schools.

And opponents in each state have urged advocates to wait—to let other education reforms run their course before trying a market-based approach. Impatient parents have often rejected this argument. In Colorado, after a charter school bill failed in the legislature, parents organized, wrote letters, and made phone calls to their representatives in Denver. "Many legislators had to run in 1992, and many who came back said they heard about charters from their constituents," says Barbara O'Brien of the Colorado Children's Campaign. "Their comfort level with the idea went up." The legislation passed the second time around.

Variations on the Theme

In the past four years, nine states have passed charter school legislation. Each differs in the chartering procedure, the number of schools allowed, and the degree of independence they are accorded.

MINNESOTA: Law passed in 1991, the first in the nation. Called for the creation of 8 (now 35) teacher-created and -operated charter schools. Some cater to students with special needs, including the at risk and hard of hearing. Legislation was amended to allow the state board to overrule a local board's rejection of a charter application.

CALIFORNIA: Passed in 1992. Maximum of one hundred charter schools statewide and ten in any district. Thirty-one charter schools now in operation. Individuals or groups may charter existing schools or create new ones. Charter schools receive their funding through school districts, but are otherwise independent.

GEORGIA: Passed in 1993. No limit on the number of charter schools, but only existing schools can convert to charters after the majority of faculty, staff, and parents approve the idea. Charters must be approved by the local school board and the state.

COLORADO: Passed in 1993. Limit of 50 schools statewide, with preference given to schools for at-risk students and 13 schools set aside specifically for those students. Two charter schools in operation. Funding for charter schools is only 80 percent of normal per pupil allotment. The schools must request exemptions from specific rules and regulations; there are no blanket waivers.

MASSACHUSETTS: Passed in 1993 and considered the most sweeping state charter school law to date. The state's secretary of education has authority to approve

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Unresolved Issues

Several serious issues remain unresolved. One is the critical matter of charter schools' relationship with teachers' unions. The ideal solution is for teachers to be employees of their school (rather than the school district), with a right to organize and bargain collectively in separate bargaining units. But for now, such arrangements are being resolved on a case-by-case basis as charters are written.

In a nation with 2.3 million unionized teachers, such an incremental approach will not work in the long run. The San Diego teachers' union, which allowed the teachers of the Darnall E Campus school a waiver from union hiring rules, now vehemently opposes further exemptions. Teachers' unions have been the leading opponents of charters in many places. Thus, it will take a broader accommodation to prevent the unions from slowing the progress of the charter movement.

Two of the most interesting unresolved issues will be played out in Massachusetts, where the state recently approved 15 schools for charter status. Three of the new elementary schools will be run by Whittle Communications' Edison Project. The Boston Renaissance Charter School will focus on teaching all students a second language, ensuring computer literacy, encouraging parental involvement, and strengthening students' character and values. Edison's two other schools, the Lowell Charter School and the Worcester Charter School, will be run on the "academy" model, in which teams of teachers work with the same groups of students for several years.

These schools will be the first charter schools in the country run by a for-profit company. Some critics worry that private firms will put their responsibility to investors ahead of student performance. Defenders counter that as long as these organizations meet performance standards, such concerns are moot.

The second issue raised by the Massachusetts charter law is its provision allowing some schools to

charter applications from businesses, parents, teachers, and colleges, bypassing local school boards. Limit of 25 schools. Each is legally autonomous from its local school district and governed by a board of trustees. Six of the 15 schools approved for fall 1995 are intended for at-risk children.

MICHIGAN: Passed in 1993. No limit on the number of charter schools, known as Public School Academies. Academies may be chartered by school districts, community colleges, or state universities. Advocates consider the University Public School at Wayne State University, opened before the legislation was passed, to be a charter school. A second charter school is set to open in September 1994.

NEW MEXICO: Passed in 1993. Limit of five charter schools, though the state offers grants for ten public schools to study the possibility of becoming charters. Schools must apply to the state board of education through their local school boards.

WISCONSIN: Passed in 1993. Limit of twenty charter schools statewide and two per district. Schools serving at-risk children receive preference. The state may grant charters to a local school board or to a group of teachers. Charter schools are part of their local school districts, but are exempt from most state regulations.

KANSAS: Passed in 1994. Limit of 15 charter schools statewide and two per district. Charter schools can be existing public schools or new schools, and must be approved by the local school board and state board of education. Charter schools will be part of their districts, and must apply for waivers from regulations.

—*KS*

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choose their own students. Affinity-based schools, such as math and science schools, necessarily must be allowed to select students prepared to deal with their curriculum. Charter school advocates will have to reconcile that practice with the idea of equality of opportunity, an important tenet of charter schools. Unless this issue is resolved, charter schools could end up "creaming" the best students, leaving others to inferior schools.

The British Experience

Charter proponents in the United States can look for guidance to Great Britain, whose charter school movement began with the landmark Education Reform Act of 1988. The British have resolved some of these issues, yet continue to struggle with others. The British equivalent of charter schools, grant-maintained schools, receive direct grants from the British national government, allowing them to operate free from local government control. These schools, which number about 1,000 among Britain's 33,000 schools, represent a range of grade levels, sizes, and academic types.

Donald Naismith, former chief education officer of the Wandsworth Borough Council, a central London school district, explains that the Conservative government takes the view that "the customer knows best." Parents and students are served most effectively, Naismith says, in a "market" of self-governing schools that compete for pupils and are able to buy services to respond to their customers' needs without the intervention of local or central government.

The central government holds schools accountable through a nationwide system of quality control. England and Wales have a new national curriculum, guaranteeing all pupils a broad and balanced education in whichever school they choose. A national system of assessment monitors student achievement at key stages of their development. Test results and other performance indicators, such as truancy rates, are published routinely. And every four years, each school is visited by an inspector from the national government.

Two principal reforms create the "market" for parents and pupils: Local Management of Schools, known as LMS, and "opting out." In LMS, essentially the British version of school-based management, many budgetary and management functions are devolved to the school level. Education scholars John Chubb and Terry Moe have criticized this reform. In their 1992 book, *A Lesson in School Reform from Great Britain*, they argue that while LMS purports to promote autonomy, it decentralizes only a handful of decisions, thus maintaining the traditional top-down bureaucracy.

"Opting out" allows schools to declare independence from their local school council (district). The central government gives operating funds, which otherwise would have gone to the local education authority, to grant-maintained schools, which use the money as they see fit.

The results of "opting out" have been mixed. While grant-maintained schools were expected to emerge from the clutches of their local education authorities and develop distinctive personalities, many simply opted out and remained the same. In some cases, failing schools opted out precisely to avoid being closed by their local councils.

On the other hand, competitive pressure from these independent schools spurred many of the local councils to make dramatic improvements in schools still under their control. Wandsworth, for instance, created a technology school and an art and design school as alternatives to the district's new grant-maintained schools. Naismith reports that Wandsworth, where 40 percent of students chose private education or traveled to other districts in 1990, now sees just 27 percent of its students making those choices. At the same time, the district's "inflow" rate has increased 13 percent.

"The schools taking advantage of their freedom are happy, and all schools are now alerted to designing courses to improve themselves," says Naismith. Patronage and lobbying for school service contracts have fallen off because schools are permitted to keep the money they save.

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John Howells, a Welsh educator and Harkness Fellow who has studied the U.S. charter school movement, observes that Britain's Conservative government, which has an enormous political stake in the success of these reforms, has been frustrated by the slow pace at which school governing bodies are choosing to opt out. The government is now raising the competitive stakes. First, all schools—whether grant-maintained or remaining within a local authority's responsibility—will be financed on the basis of enrollment. Under this scheme, roughly 85 percent of schools' income will depend on how many pupils they enroll.

Second, the central government is taking away the authority of local school councils to restrict enrollment into popular, over-subscribed schools, and has recently announced changes in the way capital funds will be allocated, allowing popular schools additional funds for expansion.

Third, the government is giving parents more responsibility for deciding whether a school will opt out. Parents will vote every year on the status of their children's schools.

Two significant differences characterize the American and British approaches to market-based reform. The American approach—even in its embryonic stages—offers more choice. The British system offers many more incentives for reformers.

In Britain, parents and students have a limited market. They may choose only among existing schools—either grant-maintained or locally controlled. This limits their educational options, limits competition among schools, and fails to take advantage of the power of markets to generate diversity and innovation. The U.S. system offers a choice among existing schools and newly created schools; it also offers a choice of schools operated by entities other than school systems, such as local governments, universities, and private, for-profit firms.

Teachers in the U.S. system also have more choices. They participate in decisions about whether existing schools will convert to charter status, and they may apply for charters themselves. British teachers, by contrast, essentially "convey" with the school building; if it goes grant-maintained, they go too.

In England and Wales, however, there are two powerful incentives at work to lure reformers. When a British school opts out, it is truly freed of most top-down central control. The local education authority is removed from the chain of command, and the school need only answer to parents and meet specified national standards. In many states, however, charter school applicants face uncertain negotiations for the waiver of various rules and regulations governing such things as class size, school hours, and curriculum.

Parents and students are served most effectively in a "market" of self-governing schools that compete for pupils without the intervention of local or central government.

And while U.S. charter schools often are required to operate on less money than other public schools, the British central government is very generous to its grant-maintained schools. At the outset, these schools receive seed grants for start-up expenses such as computers, new staff recruitment, and staff restructuring. All grant-maintained schools also receive annual capital allocations for physical improvements.

Is there a spectacular improvement in British education after five years? Naismith thinks not. But, he says, there have been significant changes, and the foundation of reform is worth building upon. With some midcourse corrections—and perhaps some lessons exchanged across the Atlantic—market-based school reforms are worth pursuing. Loyal Carlon, who runs the school with the odd name in San Diego, agrees. "We've got a five-year contract," says the principal of Darnall E Campus, "and we think we're getting the hang of this." ■

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State Capitalism, New York Style

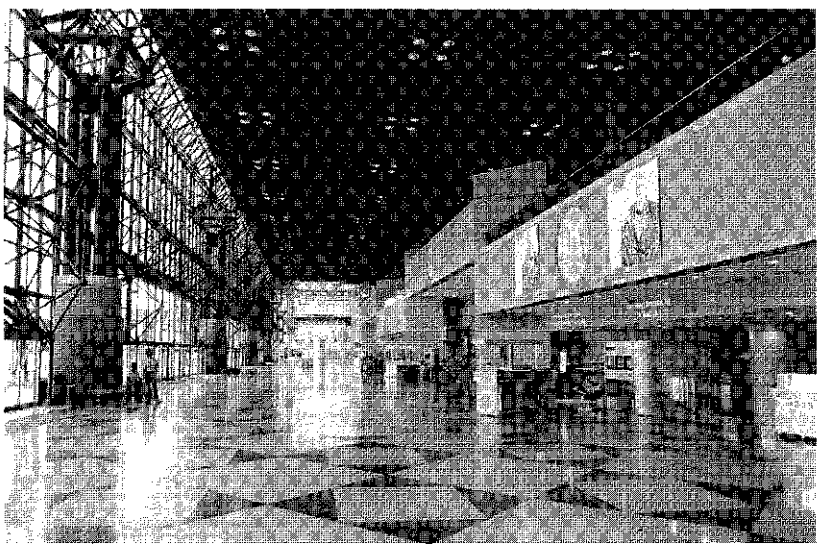
William J. Stern

New York's economic development efforts have benefited political insiders, but have done little to improve the city and state's economy.

In February 1994, New York City and State and the Disney Corporation announced a "public-private partnership" in which the city and state will lend Disney $21 million at 3 percent interest, which Disney will use to rehabilitate and reopen the landmark New Amsterdam theater on West 42nd Street. The agreement is an attempt to give the 12-year-old state- and city-sponsored 42nd Street Redevelopment Project a much-needed push.

It may seem odd that New York City and State, both of which are facing serious fiscal problems, are lending money at bargain rates to a highly profitable corporation whose chairman earned $200 million in 1993. In fact, it is perfectly in keeping with the economic development philosophy that New York officials have pursued for the past three decades—a philosophy I call "state capitalism." It is a philosophy based on the idea that these governments can act as all-knowing capitalists, allocating capital in a way that will maximize the creation of wealth, jobs, and tax revenues for New York.

State capitalism favors older industries over newer ones, established companies over up-and-coming ones, and the politically connected over ordinary citizens. It is a strategy that has failed, as evidenced by a variety of economic data. *Forbes* reported in January 1994 that one-third of Americans who lost their jobs during the recent recession lived



George B. Gibbons / FPG

State capitalism at work: the Javits Center, Battery Park City, South Street Seaport

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in New York State, and that the state lost almost 10 percent of its private-sector jobs over four years.

State capitalism takes three basic forms: tax breaks for specific corporations to keep them from leaving New York; public-private partnerships, or subsidies for favored developments; and developments that are built, owned, and operated by the government.

Tax Breaks for Corporations

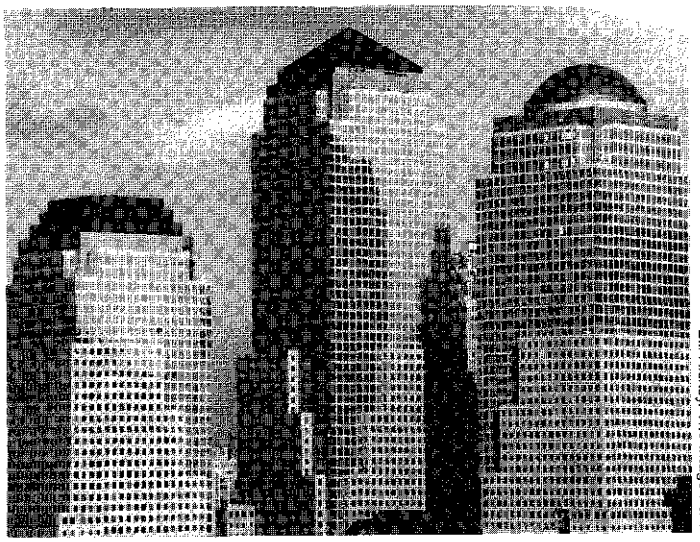
In the first type of state capitalist venture, the state and city act as bureaucratic deal-makers. In order to prevent certain businesses from leaving the city, the governments award them a variety of tax breaks, cheaper energy costs, and other concessions. The businesses receiving these dispensations are almost always large, high-profile enterprises whose departure from the city would not only cost jobs and tax revenues but also cause embarrassment to New York's political leadership.

Consider the deal the city cut in 1987 with NBC. The network was supposedly evaluating whether to relocate its headquarters from 30 Rockefeller Plaza either to New Jersey or to a proposed Donald Trump development on the west side, which the developer was calling "Television City."

At first the city rejected any deals if NBC remained at Rockefeller Center. The deputy mayor for economic development pointed out that granting a reduction of existing taxes to a company that still had 13 years left on its lease would require a "complete reversal of city policy." The city normally grants tax abatements only when a property is "valueless" or when its owner makes improvements; in the latter case, the abatement is for a share of the increase in the land's value that comes with the improvements. NBC, the deputy mayor pointed out, wanted the city to forgo taxes it was already collecting on Rockefeller Center.

But the city changed its mind and reassessed the entire Rockefeller Center complex, lowering the tax rate until 2006, when the city is to begin phasing in a higher rate over 17 years. The city projected this agreement would save NBC $73 million in taxes. Moreover, the city would become the temporary owner of the network's expanded Rockefeller Center space, entitling NBC to hundreds of millions of dollars in city industrial bond financing, as well as a full sales tax exemption. Adding up all the advantages of the deal they were offering, city officials estimated it would reduce NBC's anticipated Rockefeller Center costs by half a billion dollars.

Other examples of this practice are numerous (see box). It is understandable that the city would wish to persuade a large employer to remain in the city. But the practice of ad hoc deal-making to induce



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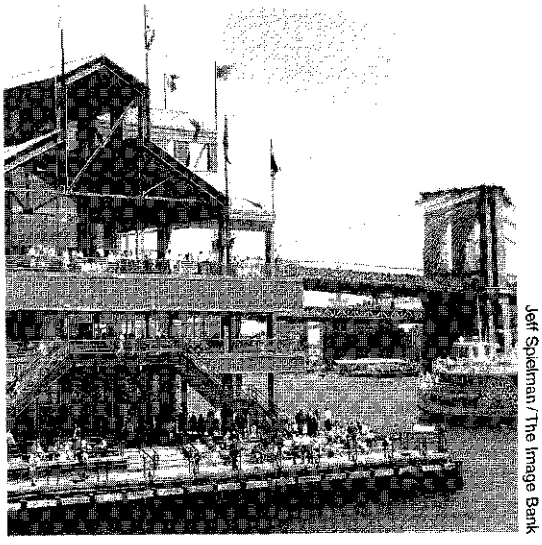

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particular companies to stay is misguided. For one thing, it creates an incentive for businesses to threaten to leave, even if they have no intention of doing so.

For another, it is extremely unfair both to ordinary taxpayers and to those businesses that are not recipients of a deal. New York politicians loudly criticize the Reagan era as one in which the government lavished the rich with tax breaks. It is downright hypocritical for them to enter into agreements giving large, wealthy corporations tax advantages not available to smaller, less affluent businesses.

This disparity points up the fundamental flaw of such deals as an economic development strategy. If even some of the city's largest corporations find taxes and energy costs so burdensome that they consider leaving, the effect of these same costs is at least as great on small and midsize businesses and on entrepreneurs deciding where to locate a new venture. But because the thousands of little decisions made by entrepreneurs garner no publicity, the city offers few incentives for small firms to stay or start in New York.

The city and state's deal-making is driven by politics, not economics. Its primary virtue is that it avoids the embarrassment that New York's political establishment suffers when a big company leaves the city. Keeping a firm in the city by offering it tax breaks and subsidies serves only to disguise the essential truth that in the highly competitive global marketplace, the cost of doing business in New York is too high for everyone.

Public-Private Partnerships

The second economic development method used by New York's state capitalists is the "public-private partnership," in which the government subsidizes selected corporations in order to induce them to make their own investments in New York City.

The 42nd Street Redevelopment Project exemplifies two of the problems with this practice. First, results come slowly if at all. The project was initiated in 1982. A dozen years later, no one would suggest that 42nd Street has been revitalized. In fact, the existence of the project may very well have retarded the area's development during the 1980s, as the uncertainty created by the involvement of state and city government made potential investors wary.

Second, such partnerships ignore basic economic realities. The central reason for financial difficulties in the theater district—half of Broadway's 35 theaters were dark this past season, and there has been virtually no commercial real estate development in the area—has been New York City's deep and lingering recession. Government can best help the theater district by adopting policies that aid instead of hinder the overall New York economy. The redevelopment project reflects the illusion that the government can somehow reach into the body of the economy and give a transfusion to a vital organ, allowing it to thrive even while the rest of the body is withering.

Battery Park City, a lower Manhattan development consisting of luxury apartments and offices, has been loudly proclaimed as a government success story. It was initially financed in 1972 with $200 million of moral obligation bonds issued by the state; the Battery Park City Authority has paid approximately $14 million a year in debt service since then. There has been much talk of expanding the activities of this "profitable" authority, northward on the Hudson as well as within the present project area.

Battery Park City is indeed an impressive development. But how much sense does it make for the government to have subsidized it? There was no shortage of office and luxury apartment development by the private sector in New York City during the 1980s. In fact, with hindsight, we can say there was a sizable overexpansion in lower and midtown Manhattan, which market forces have been correcting since 1988. In other words, the state government subsidized exactly the kind of development that went on all over the city without government subsidy.

Of course, at the time the project was initiated, officials did not know that this kind of expansion was going to take place. But that is precisely the point: How could they have known? How can they ever know? Even if individuals in state and city government could allocate capital with a kind of divine wisdom, these state capitalist projects take so long from inception to completion that all the assumptions that justify the initiation

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The Art of the Deal

Well-connected Wall Street companies are among the biggest beneficiaries of the city's special tax exemptions.

• In June 1991, Bear Stearns agreed to relocate 1,500 employees to the city-financed MetroTech development in Brooklyn instead of to New Jersey. The city gave the firm a "standard" $27 million package consisting of property tax exemptions, employee tax credits, and energy cost reductions, plus an additional $17 million in specially designed sales tax exemptions and energy subsidies.

• After two years of negotiations, Prudential Securities agreed to keep its headquarters in lower Manhattan for twenty years. In an agreement signed in June 1992, the city promised Prudential $106.2 million in tax and energy incentives—$21,000 for each of the five thousand jobs retained in the city.

• The Mercantile Exchange, which had been looking for larger quarters since the mid-1980s, agreed in November 1992 to stay in lower Manhattan rather than move to Jersey City, after New York offered an $80 million package of incentives. Exchange officials acknowledged, however, that the Jersey City option had "evaporated" because falling rents and larger vacancies in Manhattan made it more attractive to stay.

• The Bank of America agreed in April 1993 to keep 1,700 jobs in its World Trade Center offices. In exchange, the Port Authority, which owns the trade center, gave the bank two years' free rent and the city offered it tax breaks worth $15.5 million over the 15-year term of its lease.

• In early 1993, MasterCard International agreed to maintain its headquarters in midtown Manhattan rather than move to Westchester County. The city offered MasterCard $2 million in tax incentives for maintaining its current 450 employees, and up to $8 million if the company adds new jobs. MasterCard admitted, however, that the tax breaks were not the primary reason it decided to stay. "The real question was where an international company should be to serve its customers," Les Cranmer, a consultant who worked for MasterCard, told *Crain's New York Business*. "People around the world know where New York City is versus Westchester."

Nonetheless, in June 1994, MasterCard officials backed out of the deal and said they intend to move as much as two-thirds of the company's New York operation to Westchester, where the real estate market had become more favorable.

—*Edwin S. Rubenstein*

of a project no longer hold true by the time it is completed. The accelerating speed of change in the global market economy is simply not compatible with the slow pace that characterizes all state capitalist endeavors.

The Battery Park City "success story," then, is actually an excellent example of the inefficiency of state capitalism. Battery Park subsidized office space and luxury apartments, goods that were widely available, at a time when there was a severe shortage of low and moderately priced housing in New York City. It is rather like the government-run department stores of communist Bulgaria, which would often have a wide variety of socks available even though no shoes could be purchased anywhere.

Yet another example is the South Street Seaport, a city, state, and federally financed shopping complex on an East River pier and nearby Fulton Street. Today many of the restaurants and shops that comprise the Seaport complex are in financial difficulty, squeezed by high rents and the city's recession. Surveys have shown that the patrons of the area are people who, if they were not shopping and eating at the Seaport, would be frequenting establishments in other parts of Manhattan. Government has subsidized yet another zero-sum activity that merely alters who gets what slice of the economic pie and contributes nothing to the making of a bigger pie.

Government Developments

In the third type of state capitalist project, the state or city dispenses with subsidies, deals, and partnerships, and enters a business itself.

The World Trade Center is a prominent example

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of this development method. The Port Authority of New York and New Jersey, a bistate institution, began construction on the Twin Towers in 1966. The idea was that the World Trade Center would house export and import companies, enhancing New York's position as the trade capital of the world. In fact, the center's tenants are mostly government agencies and financial firms. The project has served primarily as a subsidized competitor for other commercial real estate developers.

The Javits Convention Center is another example, one in which I became involved as chairman of the Urban Development Corporation (UDC). The state had initially financed the project in 1980 through the issuance of term bonds by the Triborough Bridge and Tunnel Authority (TBTA). A convention center, of course, has little to do with bridges and tunnels. But the TBTA became the financing vehicle because it had the necessary credit to issue bonds, while the UDC, the authority responsible for initiating the project, had nearly brought the state into bankruptcy in the mid-1970s. Because an authority, rather than the state government itself, issued the bonds, voter approval was not required. Yet our grandchildren will be paying off the debt incurred in the center's construction.

New York's policies have produced a nomenklatura—a privileged class of people who benefit from government involvement in the economy.

The state established a bewildering set of bureaucracies to oversee the project. A UDC subsidiary called the New York Convention Center Development Corporation (CCDC) would build the center. The TBTA was an equal stockholder in the CCDC; the chairmen of the UDC and the Metropolitan Transportation Authority (which oversees the TBTA) each had two votes on the CCDC board. Another corporation was organized, the New York Convention Center Operating Corporation (CCOC), to take over from the CCDC and manage the facility after it was built. The CCOC's board is appointed by the governor, the mayor, and the leaders of the State Legislature. (Note that New York's state capitalists use the terminology of market capitalists—subsidiaries, stockholders, board of directors—even though their activities are monopolistic and ultimately supported by the taxpayers.)

If one drew an organizational chart for the convention center project, there would be no box or even boxes at the top. Literally no one was responsible for a project that cost taxpayers more than $2 billion, after inflation. When I arrived at the UDC early in 1983, construction had been underway for two years. I soon discovered that a major engineering problem was being hidden from the public: the "nodes," an essential part of the center's unique space frame design, were not passing quality assurance tests and thus were unsafe. Since there were no direct lines of organizational authority, the only way I could do anything about the problem was to take my case to the press, hoping an uproar would develop that would influence events in the right direction—which, fortunately, is what happened. The safety problem was cured, but the project concluded two years behind schedule and some $300 million over budget.

I also discovered that the center's planners had conducted no serious investment analysis before undertaking the project. As is typical in state capitalist projects, the UDC had prepared detailed statistics purporting to show what is called the "multiplier effect." These reports estimated the amount of money that the convention center's visitors and construction would add to the city's economy. Extrapolating from these data, the reports estimated the number of permanent and temporary jobs that would be created, the amount of taxes collected by the city and state, revenue generated for the city's hotel, restaurant, and entertainment industries, and so forth. Based on these estimates, the project was pronounced economically sound, financially viable, and "profitable" for the city.

The trouble with this kind of analysis is that it does not present any alternate investment analysis. It ignores the question: What if the same money had

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been used to build something else—a computer software industrial park, a high-tech fish farm, a biomedical research facility?

Even more important, it does not calculate the "demultiplier" effect of such a project. It fails to ask: What if the tax money spent on building and managing a convention center had been left in the pockets of the citizens and businesses of the state, to be employed in the normal market economy? We will never know the answer to this question. But it requires an enormous leap of faith and ignorance of economic history to reject the principle that if individuals and businesses are allowed to make their own investment decisions in a market economy, the results are generally far superior than if the government makes those decisions for them.

A New Strategy

State capitalism has been New York's dominant economic development philosophy for three decades. During that time, New York's economy has steadily declined. Using figures provided by the U.S. Bureau of Economic Analysis, the Empire Foundation estimates that between 1963 and 1992 New York's Gross State Product grew only about half as much as the nation's Gross Domestic Product. New York's personal income growth during the same period lagged behind that of the nation as a whole by almost 30 percent, and the state's job creation rate was less than one-fifth of the national rate.

State capitalism has, however, enabled a group of political insiders to enrich themselves at taxpayer expense. New York's economic development policies have produced what Eastern Europeans call a *nomenklatura*—a privileged class of people who benefit handsomely from government involvement in the economy, at public expense. New York's *nomenklatura* includes politicians, public finance specialists on Wall Street, politically connected lawyers, public relations people, and lobbyists.

New York should abandon state capitalism in favor of a new economic development strategy based on the principle that the market can allocate capital far more productively than government. Such a strategy would have two parts.

First, remove the impediments to doing business in New York. New York's leaders must not only cut overall taxes and regulations, but also carefully examine the types of taxes they levy and eliminate those that are the most counterproductive. If we need to encourage the formation of small businesses, why do we have state and local capital gains taxes? If our energy costs are already uncompetitive, why did we require Con Edison to pay $1.3 billion in state and local taxes in 1993? The latter tax is especially perverse, given that most of the deals the state and city cut to keep large corporations here involve a reduction of energy costs—which are driven higher by the taxes utility companies pay.

Second, reduce the size and scope of New York's government. New York is inhospitable to business in large measure because the private sector must support an enormous welfare state. In a highly competitive global economy, New York simply cannot afford a government of its present size. Entrepreneurs know the burden they will bear if they invest or start a business in New York, and it is increasingly easy for them to go elsewhere.

New York might look for an example to the new governor of New Jersey, Christine Todd Whitman, who has embarked on an ambitious tax-cutting program. At the same time, she has challenged New Jersey's state capitalists, repudiating a plan to subsidize the move of the NBA's Philadelphia 76ers to Camden, vowing not to use tax money to lure the New York Yankees across the Hudson, and suggesting that the state sell the Meadowlands sports complex. Governor Whitman's willingness to challenge the *nomenklatura* of her state should be an inspiration for New York's political leaders to do the same.

New York has become economically uncompetitive, and it is becoming increasingly difficult to hide this fact behind deals, partnerships, subsidies, and other state capitalist endeavors. If we are to prosper in the twenty-first century, we must adopt a new economic development strategy, one that unleashes the market economy rather than tries to create wealth by bureaucratic fiat. ■

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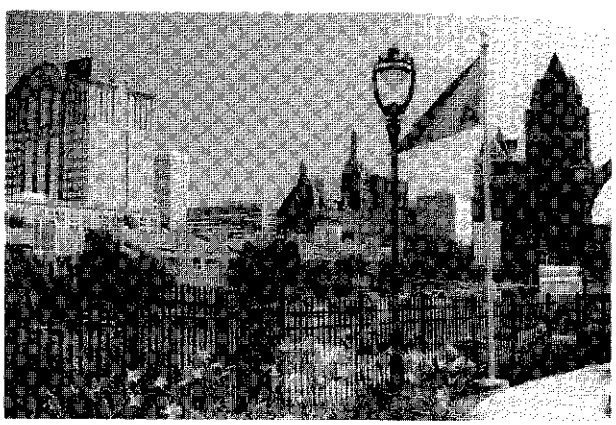
The Self-Reliant City

Elected mayor of Milwaukee in 1988, Democrat John Norquist has earned a reputation for streamlining city government and promoting economic growth. Under his leadership, Milwaukee has cut tax rates six years in a row. Mayor Norquist has taken bold positions on crucial urban issues: he calls for abolishing welfare and is a vocal proponent of school choice. He delivered the following speech in New York City at a forum sponsored by the City Journal.

Cities have always been the source of wealth and culture. If you study the history of Babylon, Damascus, Mexico City before the arrival of the Spanish, or any city that has ever existed, you will find that it formed because people moved beyond farming and developed special skills and knowledge. That specialization created wealth and leisure time, which ultimately led to the creation of culture.



It is unfortunate that in the last forty or fifty years in the United States we have lost sight of the great purpose of cities. Instead, we view our cities as problems or objects of sympathy. For example, shortly after the L.A. riots following the Rodney King verdict, I attended an advisory committee meeting of the U.S. Conference of Mayors. There was almost a feeling of glee among some mayors who attended: finally the Federal Government would realize it had to do something for cities. I was saddened and puzzled by their reaction. If anyone was likely to change his or her view of Los Angeles following the riots, it would not be politicians in Washington but bankers and investors, who, remembering the violence, would avoid investment in South

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Central L.A. for a long time.

The strategy of building a city on fear doesn't work. Back in the late 1970s and early 1980s, city officials used to say that if cities didn't get federal money, there would be violence in the streets. But this "trick-or-treat" strategy did not work. Between 1981 and 1993 the Federal Government cut its funding to cities by 80 percent.

City officials have also tried to obtain federal dollars by making people feel sorry for cities. But you can't build a city on pity any more than you can on fear. Several New York mayors have pleaded that their city would collapse financially if the federal or state government did not give it more funds. Imagine a corporation announcing to its stockholders and customers that it is about to go bankrupt and needs more money: Would you invest in a bankrupt company?

City bureaucracies tend to focus on their own survival rather than on the survival of their city.

We will only save our cities if people value them. City governments need to understand that they must compete for people and businesses—by steadily reducing city spending and improving services so that people have a reason to stay.

In Milwaukee, we have reduced city spending and lowered our tax rate for the sixth year in a row. We have eliminated about 450 city positions—mostly through attrition—and added two hundred police. This has encouraged investment: businesses are doing well, and the city's overall unemployment rate is about four and a half percent.

Frequently, mayors are tempted to create a lot of publicity about an impending fiscal collapse, thinking that when they resolve the budget problems later on, they will look like heroes, and this will help them win reelection. But they are mistaken: Voters are not impressed when a budget collapses because the city plugged the gaps in past budgets with one-time revenue sources, or federal and state funding is not enough to make up the deficit. In the long run, politicians will find they are better off if they have stable balance sheets, reduced costs, and better services.

Let me give you some examples of how we have saved money in Milwaukee. We have been able to significantly lower the cost of health insurance for city employees without having to demand sacrifices from the unions. Instead, we told insurance companies they would have to compete to cover city workers. We have almost no copayments. We offer the lowest-cost HMO free to our employees; they must pay the additional cost of more expensive HMOs. We have also saved money by contracting with suburban communities to provide services such as fire protection and road signs. We have instituted internal charges between city departments, so that if one department of city government wants something from another department, they have to pay for it. Oftentimes they decide they don't want it, or they may decide they can buy it less expensively someplace else.

These changes have helped us to reduce costs while, in many cases, increasing the quality of services. Cities that don't understand the need to do this will suffer mightily. We are in a competitive world. The United States economy increases its efficiency about three percent per year, and govern-

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ments that fail to do the same will be passed by.

When businesses want to increase their share of the market, they know they must do three things: reduce price, increase quality, and increase the speed at which service is delivered. Johnson Controls, a big corporation in Milwaukee, used to take weeks to deliver some of their products. They now deliver within hours, and as a result, they get more market share. The W. H. Brady Corporation, also of Milwaukee, used to take three months to deliver some things; they now deliver industrial labeling products used in factories within a day, or the product is delivered free.

City bureaucracies tend to work against these means of increasing competitiveness. They focus on their own survival rather than on the survival of their city. In the 1970s, for example, when Medicaid began covering immunizations for children, employees in the Milwaukee Health Department, which had always provided immunizations, felt threatened. Instead of finding something more productive to do, they protected themselves by getting a contract with the Medicaid HMOs requiring them to refer children to the Health Department for immunizations. Under this arrangement, the city had to provide immunizations with property-tax funding, and the parents had to make an extra trip to the Health Department to immunize their children. Partly as a result, when a measles epidemic spread across the United States, two children in Milwaukee died.

Even if city governments were run as efficiently as possible, however, the vitality of our cities would not improve enough as long as federal policy remains unchanged. Several federally funded programs are actively hostile to cities. One of them is the welfare system. Welfare pays millions of people not to enter the labor market. If they do enter it, they are punished if they make more than a certain amount, not only by getting kicked off welfare, but in some cases by having to repay their earnings. Abolishing welfare is key to the health of cities, and I wish that the organizations that represent cities would spend more time trying to bring that about.

The Federal Government's housing programs also hurt cities. The involvement of the Department of Housing and Urban Development (HUD) in mortgage guarantees and lending disrupts the housing market for lower-income people. The principal attraction of housing in distressed neighborhoods is its price, which used to be so low that many people could afford to pay cash for a house. You didn't need a HUD mortgage to buy a house in the heart of Milwaukee for eight thousand dollars. But the net effect of HUD's programs has been to bid the price of that house up to forty-five, fifty thousand, or seventy thousand dollars.

The area of federal policy that does the most harm to cities, however, is transportation. One of the qualities that makes cities valuable is the proximity of businesses and people. But the U.S. has spent more than any other country on interstate highways that encourage businesses to move away from cities. When Lewis Mumford said in 1956 that the Interstate Highway Act would cause more damage to American cities over the next twenty years than all the bombing did to European cities in World War II, it was, if anything, an understatement.

The Federal Government ought to get out of the transportation business entirely or balance the interests of cities against those of the suburbs. Fortunately, Senator Daniel Moynihan, who understands cities better than any other member of Congress, was instrumental in crafting the Intermodal Surface Transportation and Efficiency Act of 1991, which provides a reasonable balance between public transportation and highways.

In Canada, there is no federal transportation program at all. If Toronto had wanted the kind of freeways that were built in cities across the United States, Toronto would have had to pay for them. But Toronto chose not to build superhighways. Instead, Toronto has a wonderfully balanced transportation system that makes it a very livable city: You can drive, walk, ride a bike, and the city has

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every kind of public transportation imaginable.

Finally, I want to discuss the importance of education and school choice because it is so essential to cities and civilization. Because large cities have so many people, and millions of business transactions take place every day, they tend to offer a wide selection of high quality goods and services at a low price—whether it's restaurants, art, or financial transactions. And this is also true of higher education. For instance, New York has Fordham, Columbia, NYU, Yeshiva, and City universities, which attract students from all over the world. But who comes to New York City to go to public grammar school or public high school? On the contrary, people leave because of the public schools. The difference is that in higher education we have schools of choice. People can use government money to attend any school they want. That is a system worth emulating. Instead this country has the most monopolistic public school system in the world.

Very few people in France or Japan pity or fear Paris or Tokyo. They know that cities are the engine of their economy.

In Milwaukee, we've begun to break up this monopoly: nine hundred children are able to use state-funded vouchers to go to nonreligious private schools. Even the analyst hired by the state's public education bureaucracy, University of Wisconsin Professor John Witte, admits that the program is a success. If religious schools are included, there will be 4,500 more seats available, and we will have a larger array of choices for our children.

School choice would force the public schools to improve in order to compete. As for the question of separation of church and state, this country was founded on the notion that there shouldn't be a state religion like the Church of England. But the founders never intended to drive religion out of all of our institutions. In fact, in the early days of this nation, Congress financed many charitable institutions and schools run by churches. Certainly, there are far greater threats to the children of America's inner cities than religion.

Cities have always been fundamental to civilization. They will not lose their importance because of the telecommunications super highway anymore than they did because of the invention of the telephone. Cities are the building blocks of American civilization, but this civilization is under attack; it is changing in ways that are frightening and disturbing to people. Rebuilding cities is the way to restore civility and culture in America.

We have to set about solving our urban problems. Our cities should be rich; they should be admired as they are in most of the rest of the industrial world. Very few people in France or Japan pity or fear Paris or Tokyo. They know that cities are the engine of their economy. They may be jealous; they may make big-city jokes; but they don't think cities are a problem. Canada, which is closer to home, certainly doesn't share our attitude that its cities can only thrive through government programs. This is an attitude that has to change very quickly in the United States if we want our cities to survive and prosper. ■

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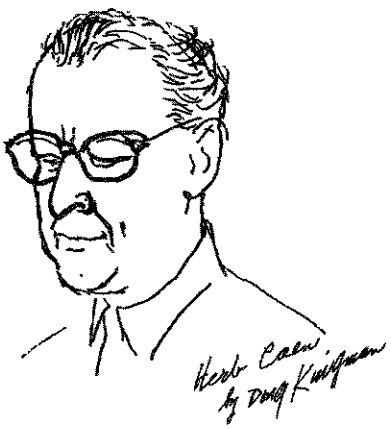
ROGER STARR

San Francisco's Citizen Caen

There are at least two cities called San Francisco. One is a seaport on the California coast, separated from the Pacific Ocean by a narrow opening called the Golden Gate, with a population of about one million people and a climate that led Mark Twain to remark that the coldest winter he ever experienced was August in San Francisco.

Another place with the same name exists in the eyes and heart of a newspaper columnist named Herbert Caen, who has been writing for the *San Francisco Chronicle* for the past 48 years. The city Caen creates for his readers has the same topography as the seaport: hills tumbling down to perhaps the most fascinating city-and-country bay on the continent; the same climate; and grossly the same history. But it is not quite the same city. True, it is a seat of commerce, a stage of cultures, a garden of races and languages, a hub of transportation, a nexus of those formal relations we call government, and a showcase of architectural and vehicular variety. Beyond all these, however, it is an object of love as no other city is for any other writer in quite the same way.

New Yorkers like me have to turn to the published collections of Caen's columns, and so our response to the Caen San Francisco is somewhat more detached than that of daily readers. Some thirty years ago, a friend of mine moved from New York to San Francisco's environs. She soon let me know that she was as much enraptured by Herb Caen's daily column as by the Golden Gate and its spectacular bridge. When I asked her why she likes Caen so much, she answered: "'Like' isn't the word. He's a necessity. I would say an addiction.... You share his comments with a friend who, of course, remembers them, too. Someone who didn't appreciate Herb Caen wouldn't be a friend."



In great part, Caen's columns represent his efforts to explain, to himself as well as to his readers, what the essence is that ties him to the city. Is it the city's beauty? The sharpness of its contrasts? The special character of its climate? In one of his columns he describes the way a San Francisco fog surges in from the sea and mocks poets like Carl Sandburg who, having never seen the rough reality of the coastal winds, describe fogs as feline and soft-footed. Again and again over the years, Caen has been drawn to San Francisco's past—the gaudy, bawdy saloons with their gambling tables and upstairs private rooms, the fancy women, the bold men who did not feel they had to hide their indiscretions. Yet it is not only this golden-tinged past that claims Caen's heart; it is equally his fear of a homogenized future ruled by developers who would encase the city he loves in a topographical and architectural straitjacket. "The only thing special about San Francisco in their eyes," he writes, "is that it has too many hills that should be levelled and crowned with boxes as soon as possible, and if they could find a way to fill in the bay and cover it with shopping centers, they would. And probably will."

This is one of many similar passages in *San Francisco—City on Golden Hills*, magnificently illustrated with wash drawings by Dong Kingman, in which Caen comes close to making clear that it is the incongruities of San Francisco that truly capture his heart. Or, at least, it is the fear of lack of incongruity that makes him resist change. It's at least worth a passing thought to wonder whether the astonishment of the unexpected response is not always one of the attractions that bind a lover to his object.

With a small stretch of the imagination the reader can take a passage from the same book and pretend that Caen is addressing his sentiments not to a city, but to a person he loves: "Let the city stay free and wild. Let there be funny old houses for funny young people and ugly old buildings, bursting with life on Market [Street]. When every building on our hills looks like the one next to it, it will no longer be San Francisco as it will not be San Francisco when everybody looks, dresses and thinks

Illustrations by Dong Kingman

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alike, if at all. . . . Do as I do or I'll kill you (ban you, fire you, snub you, turn you in to the FBI). Some people would like San Francisco that way. But they're not the people who come up with a Dolphin Square or peddler selling newspapers in a derby hat, or eat a hot dog on Market Street in the cold wind of July—and keep a city warm and alive."

My San Francisco friend, Rachelle Marshall, tells me that those who know Caen's work only from the published books miss much of his best writing. That, she claims, is often found "when he tells his daily readers what they would prefer not to know, such as the desperate shortage of funds and volunteers at a downtown homeless shelter, or the unnecessarily brutal rousting of a panhandler he had witnessed that morning, or a local company's swindle of its employees. He mercilessly skewers politicians he considers jingoists or hypocrites. Still, most of the time he's not angry but amused."

Caen is, of course, especially attached to the cable cars that still navigate up and down some of the San Francisco hills. Under the surface of the street on which their rails are laid, a looped steel cable is pulled by a great flywheel in the cable powerhouse. The cars move by closing a steel grip around the cable, which, because it is looped under two sets of tracks on each thoroughfare, can pull simultaneously in either of two directions. When a car reaches one end of its line, the cable grip operator loosens it and he and the conductor descend from the car and push it around the sharp turn that takes it to the opposite track on which it will be pulled back in the other direction. The uniqueness of this arrangement—once the only way to carry passengers up the city's hills but now easily displaced by buses—delights Caen. When the two operators descend from the car and with no other force than that of their own muscles turn it around so that it can start on its return trip, the columnist feels as though he has raised the lance with the lace kerchief of the city on the golden hills displayed from it.

Caen also reminisces about the old street cars which, when abandoned, were turned into housing units for a number of years until they were replaced by more conventional types of housing. Caen mourns their passing. He acknowledges that it is at least possible that a structure designed as a permanently anchored edifice is a more satisfactory home for its residents than a de-wheeled streetcar. But the change, the move toward convention and away from the variety that flourishes in San Francisco, troubles Caen more than the possible discomfort that residents of the stranded trolley cars may have suffered.

Something of the same ambiguity flavors his discussions of the ferries that carried people across the bay between San Francisco and Marin County, Oakland, and suburban bay communities like Sausalito and Berkeley before the construction of the mighty San Francisco–Oakland Bridge and the Bay Area Rapid Transit system. Without minimizing the unpleasantness of the ferries when the weather was really bad or discounting the occasional accidents as ferries collided with each other or other vessels in the dark, Caen seems to have felt about the disappearance of the ferries (all but one route, I believe) as a lover feels when his lady surprises him by getting her long hair cut to an Audrey Hepburn bob. He acknowledges that short hair is easier to shampoo, but like the bridges that have replaced the ferries, it's long on efficiency and short on romance.

Caen insists that "the concept of cities is changing. They are becoming horizontal, stretching out and out to infinite conformization . . . villages laid end to end like cemeteries for the living. They are impossible to tell apart (the democracy of the mediocre)—one simple complex after another, a supermarket, one super bowling alley-cum-superdomed burger shoppe, compounded by a

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glistening forest of aerials atop look-alike houses populated by look-alike, think-alikes. I'll take the verticality with its head in the clouds and its feet stuck solidly in concrete surrounded by the wonderful, miserable clutter and rumble of the metropolis. It's a glorious mess, yes, but it's alive and kicking. Hard."

It's worth noting that while Caen opposes buildings of the same or similar height, considering them boring, there is a strong tendency in New York and other eastern cities among city planners and neighborhood associations to insist upon "contextual" planning. By this, the proponents mean exactly

the opposite of what Caen is saying; they are urging that buildings adhere to a similar, or even a rigidly fixed, cornice line. They believe that the very monotony of a street's aspect offers a source of satisfaction and stability to the people who live on it.

In contrast, the magic of San Francisco depends on the encounter of sudden, unexpected differences between buildings and people. Caen describes how along certain major San Francisco streets, neighborhoods change ethnicity block by block from Anglo to Hispanic to Asian. In New York, ethnic groups are separated into much larger districts. The unexpected changes in smells and signs not only enliven the experience of the San Francisco walker; they tend to blend the races and nationalities more effectively than does the pattern of New York's black, Hispanic, and European-American districts.

With astonishing ease Caen picks up stories that reveal the sometimes startling behavior of San Francisco people. One of his columns tells a story that began when Jacob Harvey, one of the city's more prominent trial lawyers, was waiting for one of his cases to be called in a city courtroom. The judge was about to dispose of a young "bad girl" (Caen's term) by sending her to an institution when Harvey suddenly spoke up, asking why she couldn't be sent home to her mother in Montana. The judge, without reprimanding the lawyer, who had no business interfering in someone else's case, said that the court had no money to cover the young woman's transportation. Harvey immediately went to the bench and turned over an adequate sum. Several years later, he received a letter from the same young woman. She had straightened herself out, married a fine young man, and had just given birth to a son. She was writing to thank her benefactor for helping to turn her life around.

Counselor Harvey, Caen writes, received the letter from the U. S. Postal Service, as managed in the city on the golden hills, although its envelope was addressed only to "Lawyer Jake, San Francisco, California."

Another typical anecdote involved a man who had his hair cut before going to his customary lunchroom for a midday meal. One of his acquaintances took a look at the shorn lamb and announced in a loud voice: "Look at Mophead." Within a few minutes everyone was calling the victim Mophead. In the midst of this verbal tumult, another familiar figure, carrying a newspaper, entered the lunchroom and, after getting his bearings, announced that a horse named Mophead happened to be entered in the sixth at Hollywood Park near Los Angeles that very afternoon. The omen was obvious to everyone present. Within a few minutes, $1,500 had been raised and, since all the bookmakers in San Francisco were closed, an emissary was selected to fly to Los Angeles and get a bet down on Mophead to win. The emissary made it in time, but the horse did not. Mophead finished sixth. But the moral hardly needs to be spoken: where but in San Francisco could such an event occur?

The city that has flowered in Caen's imagination is, unlike other centers of population, not a working city that claims that what it makes determines its quality, nor is it simply a consuming city whose constant appetites drain the products of the world outside. Such economic processes do not attract Caen's attention. His San Francisco could, if it willed, subsist on the nourishment of the gods, nectar and ambrosia; and his ultimate fear, one guesses, is that a future San Francisco will be satisfied with prefabricated hamburgers and skimmed milk. ■

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STEVE WEEKS

Joe and Carol Reich: Investing in Children

"Whose fault is it that Johnny can't read? It isn't Johnny's fault," Carol Reich says as we sit in a small conference room decorated with photos from a recent African Safari, snow piling up on Third Avenue 18 floors below us.

"The public education system in New York has lost its way," her husband Joe says. "Teachers can't make decisions, principals can't make decisions. The average textbook is 19 years old. There are instances of leaking roofs that no one comes to look at for five or six years."

Those are strong words, and the Reichs are just warming up. But they have also put their money, and their heart and soul and a whole lot of hard work, where their collective mouth is. While everyone else just talks about improving education, Joe and Carol Reich (pronounced "rich") have created the Beginning with Children School. The school opened in September 1992 in the Williamsburg section of Brooklyn, with one class each of kindergarten and first grade. Every year, two kindergarten classes are added. Now there are some two hundred kids attending, and there will eventually be 350 students in grades K through 6. Beginning with Children School is a public school open to Brooklyn students, with preference given to those living in Williamsburg, Greenpoint, and Bushwick. The first completely bilingual school in the system, it is run by a coalition of parents, the Board of Education, the United Federation of Teachers, the Pfizer Corporation, community leaders, and the Reichs' own foundation.

So far, the school is an unqualified success and is showing every sign of becoming a model for public-private partnerships. In the meantime it is changing the lives, not just of the two hundred students who are now attending, but also of the entire community.

Jeffrey Vock

Joe and Carol Reich, founders of the Beginning with Children School.

So who are Joe and Carol Reich? Getting them to talk about themselves is like trying to open oysters with a toothpick. They are so down-to-earth as to be positively subterranean, friendly and unassuming, with a genuine sense of humility. They'd rather talk about the school and everyone who helped them build it. It takes some convincing to get them to tell their own story.

Joe grew up in Charleston, West Virginia, and Carol is from Chicago. They met as undergraduates at Cornell. After Joe graduated, he took a commission in the Navy. They got married and bounced around the country a bit while Joe fulfilled his Navy duties and earned an M.B.A. from Stanford. In 1961 they moved to New York.

Like a lot of young people when they first move to New York, the Reichs had a hard time getting an apartment—it took them three months to find their first place—and they didn't have much money. "We felt very poor," Carol says. "We used to walk up and down the streets at night, because the shops were closed and it was okay to press your nose up against the glass. It was like being a little match girl."

"But it was exciting," Joe remembers, and his wife agrees.

Their three girls were raised in Brooklyn, attending private schools. Meanwhile, the city that the Reichs came to more than thirty years ago changed. "The casualty to children in this city is enormous," Carol says.

Joe is realistically optimistic. "It's more exciting right now. Some of the real problems that just kept getting worse are beginning to be addressed with fresh ideas."

"We were raised and educated to think that anything is possible," Carol says. She's an attractive woman, with eyes whose fierce intelligence does not diminish her kindly aspect. Joe seems

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like a clean-cut banker type, until you notice what could be the makings of a respectable ponytail creeping down the back of his neck. Together they look younger than they must be.

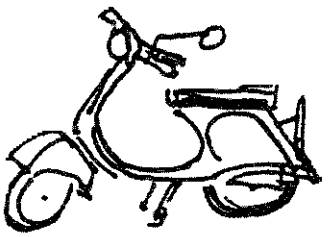
Joe worked as an investment manager and his experience was entrepreneurial. Every business he got involved in was either a small company that grew big or one that he helped start himself. They were, in his words, "organizations that had no structure and could be changed or created." Whenever a company he was working for got too big or bureaucratic, he'd start a new one.

Carol had done some interior design and was involved in volunteer work. But when her youngest daughter entered kindergarten, Carol went back to school herself, studying developmental psychology and specializing in the communication of knowledge. While doing research with the deaf, she worked with the Lexington School for the Deaf and eventually became president of the Lexington Center. She also worked at the Bank Street School of Education and in 1985 got her Ph.D. from CUNY in developmental psychology.

The couple hadn't ever worked together professionally until 1987, when Reich and Tang, the investment management firm that Joe helped create, went public. The same day the firm went public, Joe started looking for a new line of work. "I didn't know what I was going to do. But it seemed to me that in terms of priorities, we were neglecting our future. And that children and education were the future."

Through Eugene Lang's "I Have a Dream" program, the couple sponsored a class of sixth graders from Brooklyn, promising to pay for the college education of every student in the class who stayed in school. The Reichs quickly found they weren't so much helping kids learn as operating a small social service agency.

The experience was a rude awakening. "It's not about how many kids go to college, it's about how many kids are alive," Carol says of her Dreamers, "and all our kids are alive. I think that's an accomplishment." It also gave them firsthand experience in dealing with the New York City school system. They saw that the schools weren't educating, just babysitting the students. After 18 frustrating months, Joe realized that his wife was right, they had to get to the children sooner. He suggested that they try to run a school themselves. A public school, that is.



In this case, Joe's lack of institutional background was a plus. "I didn't know what we would be up against," he says. Carol had more experience dealing with the educational bureaucracy and knew it wouldn't be easy. They met with educational leaders, both inside and outside of the system, including Joseph Shenker, the president of Bank Street College; Debbie Meier, the MacArthur Foundation genius of District 4; Sandra Feldman, the head of the United Federation of Teachers; then School Chancellor Joe Fernandez; and Sy Fliegel and Cole Genn of the Center for Educational Innovation, who helped guide the Reiches past many bureaucratic obstacles.

While everyone else supported the Reiches idea, Community School District 14, the same district in which Joe and Carol had sponsored their dreamers, proved an exception. "They did not want this school," Carol says bluntly.

The district did not want a school with the broad participation (i.e., input from outside the bureaucracy) that the Reiches were projecting. They also were afraid that a new school would take per-head dollars away from the other schools in the district. But somehow, and the Reichs are not quite sure what went on behind the closed doors of the chancellor's office, Joe Fernandez cut a deal that put the proposed school under his personal control rather than under the local school district.

At that point the Reiches still didn't have a building for the school. So they got together with Pfizer Pharmaceuticals, which has a manufacturing plant operating in Williamsburg and is in the process of a massive urban renewal project in the area. Pfizer took an early and significant role in helping create the Beginning with Children School—indeed, the Reiches say they couldn't have done it without the company's help. They met with Tom Kline, plant manager for Williamsburg, in an administration building that had once been the worldwide headquarters of the company and would become vacant when office

Illustrations by David Klug

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personnel moved into the manufacturing plant across the street. The Reichs mentioned that they still needed a facility for the school, and Tom Kline put his hand down on the table and said, "Take this."

"I thought he meant the conference table," Carol remembers, "which was nice, so I said, 'Thank you.' But he meant the whole building."

In June 1990 the Reichs told Fernandez they were ready to start a school in one of the most underperforming districts in the city. They had $500,000 from their foundation and another $500,000 from Pfizer; and the company was willing to give them a facility.

"Can you open in September?" Fernandez asked.

They couldn't open in September 1990. Nor in September 1991. And it wasn't for lack of trying. You might think it would be relatively easy to donate a million dollars and a building to the City of New York to create a public school. And you might think that the East River is a river. But the byzantine and bizarre rules governing school structures, and the noodlehead bureaucrats who enforce them, made it almost impossible for the Reichs and Pfizer to *give* New York City a school.

At meeting after meeting, low-level bureaucrats kept erecting obstacles to the plan, using regulatory details like asbestos removal, how big a classroom should be, the number of windows per room, the number of bathrooms per floor, and the height of urinals. The bureaucrats figured that if they couldn't keep the Reichs out of the school system by ordinary means, they might succeed in thwarting them with sheer tedium.

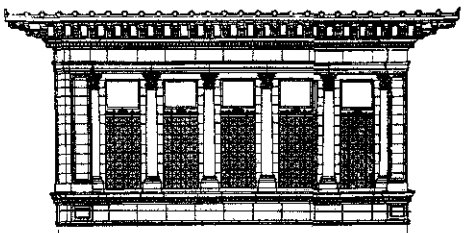
After about a year of the bureaucratic mambo, the Reichs realized they weren't getting anywhere. In the middle of one of those endless, obfuscatory meetings, Joe stood up and said, "That's it. I'm not doing this anymore. I'm not going into a meeting with any more than three people." And he walked out of the room.

"And I was not embarrassed," Carol adds, which is her way of saying she was proud of him.

Next, they went to the *New York Times*. Their story came out on the front page of the Metro section: how two successful New Yorkers were trying to put something back into the city that had been so good to them, and the city wouldn't let them. An accompanying photo showed the couple standing across the street from the empty building that was waiting to become the Beginning with Children School.

Soon many of the impedimenta that had previously blocked their way were either removed, avoided, or ignored altogether. They worked hard preparing the school building, Carol overseeing much of the construction. Because the facility wasn't yet ready for the beginning of the school year, they had to open in nearby Eastern District High School. Two weeks later, work on the old Pfizer building was completed, and the school was officially opened.

I visited the Beginning with Children School the day after one of the heaviest snowfalls of an already brutal winter. Even a blizzard can't cover up the wreckage of Williamsburg. As we drove into the neighborhood, I saw acres of



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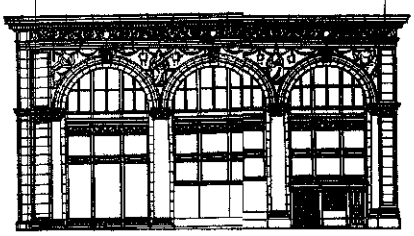

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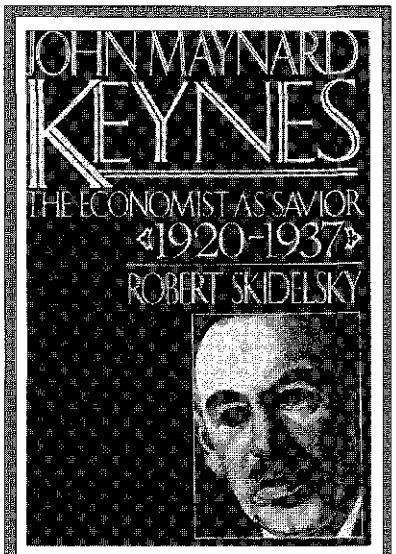

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hollow buildings, miles of cyclone fencing topped with razor wire. The prostitutes were out strutting in their mukluks, and a few bad men were hanging out in front of one of those candy stores where you can get anything you want, except candy. Joe Reich points out the spot where a boy was gunned down near the Beginning with Children playground, right in front of the kids.

"Until we can guarantee the safety of children, I don't know what we can do," Carol says and then tells the story of a student who sleeps with his pillow over his head to drown out the sound of gunfire. Every kid knows someone who has been murdered.

But when you walk in the front door, past a bright, cheery sign, the school is alive with the bustle and commotion, and sometimes the chaos, of children who are learning—but who are also having a lot of fun. You get the sense that when the kids come to school they leave behind whatever troubles exist out on the street or possibly in their own homes.

The security guard has a child in the school, and she greets the Reichs warmly. We walk down the hall and into what the Board of Ed calls a multipurpose room but everyone here calls the family room. The walls are covered with large framed photos of every child in the school. Carol explains that although they keep trying to set the photos level, the kids always knock them askew, pointing their pictures out to their friends and to themselves, saying, "That's me."

Then into the science room, where the students keep their pet tarantula and are observing mealworms turn into beetles. The teacher shows us the latest in computer software that the students can easily access, in Spanish or English, to learn more about animals and nature. The walls are cluttered with student projects and artwork. Against one wall, children are building a snowman out of packing foam. Carol tells the teacher that one of the students had a pet turtle that died, and she wants to make sure the child gets one of the school's turtles to replace it.

In another classroom we walk into the gleeful pandemonium of activity time. One student is making a collage. Another is building a cardboard horse he can ride. Another is building a box for the newest additions to the class, a litter of gerbils expected any day now. A couple of students are captivated by their computers, creating artwork that is printed out by a laser printer. One of them presents an autographed original to a magazine writer. Many of the children are wearing T-shirts and sweatshirts bearing the school's name—while these are not officially a uniform, the kids sport them proudly. Carol and Joe seek out one student who has composed a book which he has handwritten and bound in construction paper. They ask him to read it aloud. He does so and then walks off with all the brainy swagger of a literary savant. In the writing workshops here, students write their own stories, and the teachers do not mar their work with red pencils. If there are misspellings, teachers gently encourage the student to look the word up in the dictionary. The emphasis here is on encouragement, not criticism; and the students respond. All of them are bright

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and eager, vying to show the Reichs (who visit the school several times a week and know all the students by name) their latest work.

The Reichs are involved in every level of the school's operation, working closely with Sonia Ortiz-Gulardo, the immensely talented principal.

"We check accountability," Carol says "We have the line for line budgets. If I see that there's $10,000 for carpeting and there's no carpeting, I'm going to ask a question."

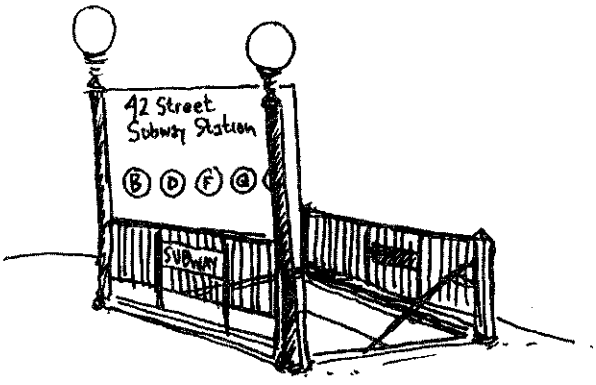
Although they are sticklers for accountability, the Reichs also believe in trust. Instead of getting book lists from the Board of Education, the teachers at Beginning with Children are given money to buy their own books. It ensures that the students have good, up-to-date materials, and it's cost effective. Even basic materials are much cheaper and easier to procure from outside the bureaucratic process. Carol offers the example that a box of paper clips that costs 60 cents at the local office supply store would cost $2.80 from the Board of Ed. And it could take months to be delivered.

"Teachers need validation," she says. And sometimes that validation can come in simple and obvious ways. Pfizer has given each Beginning with Children teacher a company ID, so they can use the cafeteria and company store. The Reichs have provided the teachers with business cards. These little things mean a lot.

The Reichs have tried to put telephones in the classrooms so the teachers could communicate directly with the parents. But they came up against the Board of Ed's division of telephones, which required that they keep the telephones in locked boxes. A similar battle occurred over food service. Instead of having meals delivered from Central District High School, the Reichs would like to contract Pfizer's food-service purveyor (or some other private concern) to provide lunches and snacks for their kids.

"Certain battles we just didn't have the energy to fight," Carol says. "We wanted to open the school." The Reichs have to set priorities and determine what they want to go to the mat for and what must be postponed until they have sufficient political capital, not to mention stamina. These battles with the bureaucracy are often drawn-out wars of attrition, although sometimes the Reichs use unconventional methods.

"They call us urban guerrillas," Carols says, and she clearly likes the tag. The Reichs often operate in the spirit of creative noncompliance, a phrase of Sy Fliegel's that describes the tactic of circumventing or ignoring rules and procedures that either get in the way or are negative in effect. For example, the Board of Ed has decreed that school walls must be painted in one of four unappealing colors: pumpkin, gray, turquoise or putty. The Reichs went ahead and painted the interior of their school white with colorful racing stripes running along the corridors and huge letters and numbers emblazoned on the walls. And when they had been waiting for almost a year for cafeteria tables and chairs, one of the local contractors got some extra lumber and built them himself.



Everyone gets involved. Attendance at the regular parents' meetings is over 80 percent. When some parents heard a rumor that the Board of Ed might try to shut down the school, they said they would march in the streets to keep their school open.

The possessive pronoun is often heard in reference to Beginning with Children. Everyone calls it "my school"—students, parents, teachers, others in the community. When the Reichs refer to "our kids," odds are they're talking about the schoolchildren and not their three grown daughters.

Parents are welcome to visit the school anytime, to sit in on classes, even to use the facilities themselves. There are computers in almost every classroom, and the Reichs are establishing a loan program so that the kids can take the computers home and teach their parents how to use them.

"The school is the logical center of life in a child's community," Joe says. "There's no reason to close a school at three o'clock."

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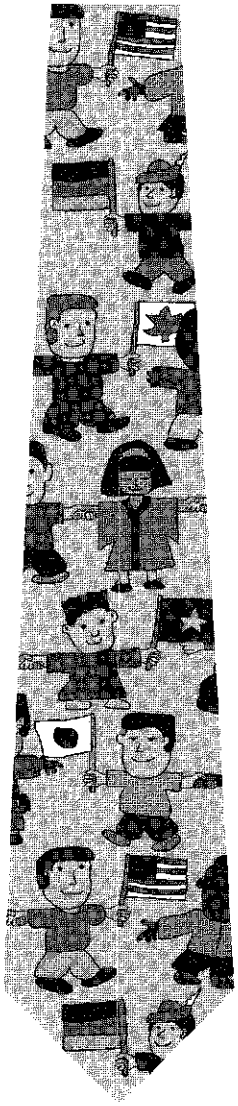

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They'd like to keep the school open 18 hours a day, 12 months out of the year, accessible not just to students but also to parents and other members of the community. They want to reestablish curricula like art, music, and science that were diminished in the New York City schools by budget cuts. They'd like to institute an adult education program and a preschool. They want to extend the pediatric care they now offer into a full health-care program. And, most importantly, they'd like to use the school to attack the racial and ethnic hatred that seems to be bred into children before they get into kindergarten.

The Reichs hope their school will become a role model for other private-public partnerships in education. "The ingredients are there. There is a large pool of teachers who are well meaning and capable. The principals are basically fairly talented people," Joe says. "There's a great deal of goodwill among New York City corporations. A lot of people have been very successful here in the last 15 or 20 years, and most of them want to give something back, do something for children. They don't know how to do it, and the school system doesn't know how to handle it. The Board of Education has no organized way to get to those people."

The Reichs have been contacted by educators from all over the country who are interested in their educational philosophy or governance structure and are trying to find out how they've succeeded where so many others have failed.

Saying that the school must grow beyond their resources, the Reichs are beginning to raise money from outside, using the foundation as a headquarters and money funnel. They are already raising funds from professional friends and business associates, but now they're going to have to start asking foundations for support. This year the budget of the Reich's foundation will be over $500,000, which so far has paid for the school's physical plant and administration. Contributions go directly to programs.

In four years, the first class will graduate. As it now stands, those students will be pushed into the regular public school system, probably into their local intermediate schools. "Or else we'll start a junior high school," Joe says with trepidation as he considers the amount of work involved. But they're committed, and although no one's talking yet about graduation, I have a feeling the Reichs are going to stick with their kids.

Joe offers the following solution: "We're hoping that, instead of us turning every stone, the system will come to us and say, 'Here's a facility, do a junior high school.'"

Those who work with and for the Reichs—the people at Pfizer, the teachers and principal of Beginning with Children, their employees at the foundation, even the guy who drives their Lincoln Town Car—are a diverse bunch of folks, but they all share a common goal: they all love the children, and, not unimportantly, they all have a lively sense of humor. Do the Reichs attract a certain type of person, or do people who work with them become that way after prolonged contact? I don't know how they do it, but it works. ■

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ZELDA AND F. SCOTT FITZGERALD

Park Avenue in the Jazz Age

Beginning in the pool of glass that covers the Grand Central tracks, Park Avenue flows quietly and smoothly up Manhattan. Windows and prim greenery and tall, graceful, white facades rise up from either side of the asphalt stream, while in the center floats, impermanently, a thin series of water-color squares of grass—suggesting the Queen's Croquet Ground in *Alice in Wonderland.*

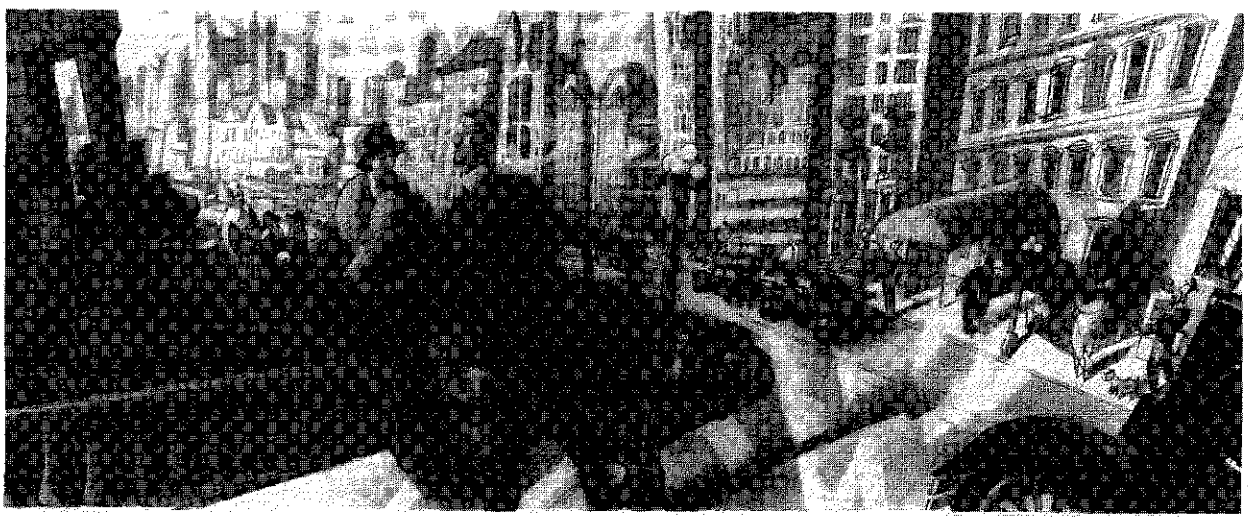
It is a street for satisfied eyes. A street of unity where one may walk and brood without being distracted by one's own curiosity. Through the arches and open gates one sees paved courtyards big enough to convey a cloistered, feudal feeling. It is the guarantee made by realty barons that people under their protection will always have enough air—and always morning air. For Park Avenue has the essence of a pen-and-ink drawing of Paris. In the morning, when it is hot noon and lunch hour on Fifth Avenue, it is still nine o'clock on Park. Even the crisp, translucent New York twilight, hovering high above the city, seems here to drift along in order to conceal the missing afternoon.

There has never been a faded orchid on Park Avenue. And yet this is a masculine avenue. An avenue that has learned its attraction from men—subdued and subtle and solid and sophisticated in its understanding that avenues and squares should be a fitting and sympathetic background for the promenades of men.

In the bright, gusty mornings, Park Avenue is animated with sets of children, slim and fashionable, each set identically dressed and chaperoned by white and starched English nurses or blue flowing French nurses or black and white maids. They clutch in gloved hands the things that children carry only in illustrations and in the Bois de Boulogne and in Park Avenue: hoops and Russian dolls and tiny Pomeranians.

There is a lightness about these mornings. Nobody has ever asked a geographical question on Park Avenue. It is not "the way" to anywhere. It exists, apparently, solely because millionaires have decided that life on the grand scale in a small space is only possible with as tranquil and orderly a background as this long, blond, immaculate route presents. It is a fitting resting-place for the fine and glittering automobiles that browse the curbstones under the patronage of gilded concierges. Even the traffic here is aloof and debonair, with an inch more freedom than it enjoys in other streets, and seems to progress by a series of hundred-yard dashes. Taxi-chauffeurs wave gaily as they rush by with empty cabs—the result of too much morning air and too much reading of the Social Register; and newsboys roller-skate under the smartest motors.

High in the air float green-blue copper roofs, like the tips of castles rising from the clouds in fairy tales and cigarette advertisements, fragile points and crags and sturdy shelves suspended on a fortress.



Sally Wert Comport

Park Avenue circa 1928.

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There is even the drawbridge in the Grand Central runway, so that sweeping off into the avenue one experiences the emotion of entering a stronghold—the stronghold of easy wealth.

Little shops, like sections of a glass-fronted doll's house, nestle in the corners along the lower avenue—shops of the boudoir sort, where one may buy an apple with as much ritual as if it were the Ottoman Empire, or a limousine as carelessly as if it were a postage stamp. These crystalline shops, lying shallow against buildings, exist on sufferance so long as they are decorative.

Park Avenue is first the New Yorker's street. It is full of nuances and suggestions of all New York, but they are shaped and molded into an etched pattern. There are disciplined, cool smells—the smell of hot motors and gusty dust—of violets and brass buttons—globular lights through an apologetic mist—gay awnings in the rarefied sunlight—Sunday bells and rows and rows of icy windows. It is the place to walk, which means that it is an international street—where the trades-people are accustomed to a clientele who need nothing, want nothing, and buy freely because they have large leisure and filled purses. Here shopping is pleasant and expensive and holy. There are foreign chemists with remedies for French-speaking germs, and Dutch florists with bulbs grown only on dykes; and there are corners stuffed with hunting-print hat-boxes. Yet there is none of the atmosphere of the bazaar that colors Madison Avenue a block away. These shops are yourself in Paris—in Rome—wherever you'd like to be, without being incontestably reminded that you are somewhere else. It is a street for strutting. It is a street for luncheon in impeccable French restaurants. It is a street to use when in a hurry, and it is a street for dawdling down. It is a street to have friends on at teatime. I suppose a street could be other things—but in the immortal words of Ring Lardner, "What of it?"

Late at night, dignity departs not from the reproachless lane. It even lends a majesty to the great revolving broom that polishes away imaginary dirt between the hours of three and five—invests the functioning of the Street Cleaning Department with the isolated and pink-lit smallness of a Whistler London night. Occasionally a flying police car or sometimes a fire engine tears past, lost in the black and misty light before the sound is out of your ears—mysterious night-riders hastening to a destiny other than their own, disturbing the peace of a street too alert ever to give a sense of repose.

At one time we have known in a single apartment house a moving-picture star, an heiress, a famous amateur athlete, a publisher, an author, and a friend. It was very convenient and we were sorry when cornice trouble or a delinquent summer or bankruptcy caused them to scatter along the street. Such is this flaming street—widened now until it has become the most colossal thoroughfare in flaming Manhattan. It is known the world over. And yet we heard a well-groomed and cosmopolitan-looking young lady say one day, "Oh, yes, that's the street next to Madison, isn't it?" And she lived in New York!

— Zelda and F. Scott Fitzgerald
January 1928

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Coney Island, a tawdry three-mile protuberance in the belly of Brooklyn, has always been a rhinestone in the rough. From its earliest days as a seaside resort in the 1840s, it was known as "Sodom by the Sea." Until the turn of the century, Coney Island was a playground for the rich and famous, who came to see the horse races in nearby Sheepshead Bay and enjoy the delights of the oceanfront hotels; but their incoming ferries and carriages were greeted by prostitutes and gamblers. When, by the 1920s, four BMT subway lines to Coney Island were completed and the masses could escape from the constricting heat of the inner city for a nickel ride, a visit to Coney Island was hardly the same as a visit to sanitized Jones Beach. The more passive seaside pursuits were always overshadowed by the omnipresent razzle-dazzle and flim-flam.

I can remember the mixture of awe and excitement I felt on trips to Coney Island as a young child in the 1930s. Getting there was an adventure in itself. The arduous journey was made by auto (no air-conditioning in those days), the large families jammed in together, along with blankets, bags of food, thermos bottles, and other beach sundries. To save the cost of changing clothes at the Municipal Bathhouse, most passengers wore their heavy, itchy woolen bathing suits under their clothes.

But having once arrived, the surge of sights, sounds, and smells was overwhelming: the wheezy carny music that always sounded like Grandma's Victrola winding down; the smells of onions and burgers frying in slightly rancid oil; the staccato popping at the shooting galleries; the thunderous roars and shrieks from the roller coasters; the hucksters and barkers crooning their adenoidal messages through cracked brown megaphones—all of these flooded our senses with pulsating exhilaration and wonderment.

Most Brooklyn children first experienced real fireworks at Coney Island. Every Tuesday night during the summer season—and, of course, on the Fourth of July—a booming pyrotechnic extravaganza lit up the southern sky at 9 P.M. It was a tradition that continued for decades with a brief hiatus during World War II. But the real anxiety gripped us kids as we were forced to walk past the sideshow freaks. I recall trying to avert my eyes, but morbid fascination exerted too great a pull. I was especially terrified by the pin-headed twin girls and the boy with snake skin.

The beach itself proved to be a combination of bountiful joys mixed with assorted minor dangers. Playing in the surf and the cooling ocean spray was great fun. So was building castles and fortresses in the wet sand. But it was hardly a genteel experience, despite Parks Commissioner Robert Moses's giant NO signs, which were posted at all entrances to the beach and forbade just about everything that everyone was doing on the boardwalk, under it, and on the beach. Getting from the boardwalk to the water was a painful journey. The sand was searingly hot and far from pristine. Broken glass, bottle caps, splintered boardwalk jetsam, and seashell shards paved the way. Mercifully, most of it was covered by a mosaic of blankets and towels, as well as supine Tarzans and prostrate Miss Americas who apparently didn't mind getting sand in their bathing suits. Threading one's way back through this human maze, which included an army of white-coated vendors hawking ice cream and candied nuts, was disorienting. On one August day in 1937, the *New York Times* reported that there were a million people at Coney

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Island, 125 lost children, 40 peddlers arrested, and 57 others apprehended and sentenced for beach violations.

In those days, Luna Park—like Steeplechase, a separate enclosed amusement area—added to the surreal quality of the surroundings with its hundreds of towers and minarets. It looked like an *Arabian Nights* fantasy designed by Captain Nemo. Opened in 1903, it was fading fast during the depression. Peeled paint, crumbling towers, and unreplaced light bulbs added to the eeriness. But even in its heyday, it evoked a quality of tinseled melancholy. The Russian author Maxim Gorky once spent a whole day being squired around Coney Island on his visit to the United States. As they were leaving Luna Park, he was asked by his hosts what he thought about it. He reflected for a moment and simply said, "What a sad people you must be!"

In the early and mid 1940s, a series of fires devastated Luna Park's buildings. Finally, in 1949, it closed its doors to make way for a parking lot and, later, a huge subsidized housing project. All of the hotels, save one, also had been torn down by the 1940s. Only the Half Moon hotel still loomed forlornly at the western end of the amusement area, a sad postscript. It received a surge of notoriety in 1941 when Abe "Kid Twist" Reles, an informant on "Murder, Inc." (the Brooklyn-based crime syndicate), managed while in custody to "fall" to his death from an upper floor before he could testify.

For teenagers and young adults, Coney Island was a hedonistic heaven. For starters, we didn't have to go there with our parents and eat homemade American cheese sandwiches that fused in the heat with the Tastee Bread and the blowing sand. Nathan's Famous on Surf and Stillwell avenues became our alimentary Valhalla. It was nickel paradise: juicy hot dogs, chow mein on a bun, barbecued beef sandwiches, and orange drinks—all at five cents each. Thick cut french fries and sweet corn-on-the-cob were a dime, but the creamy frozen custard at the stand just west of Nathan's across Schweikert's Alley was also a nickel.

Iron racehorses at Steeplechase Park.

Further east, Feltman's, a sprawling indoor-outdoor garden compound, was a more expensive family restaurant. Hot dogs, which were invented by Charles Feltman before the turn of the century, cost a dime there, and shore dinners (seafood) could be had by really well-heeled visitors. Feltman's closed in 1954, probably because of the disappearance of big spenders and the popular prices of the enterprising Nathan Handwerker.

Getting to Coney Island by public transportation was also fun. The drab chocolate-colored BMT subway trains that went to the seaside were transformed on weekends into pleasure conveyances, filled with the sounds of harmonica solos, vocal harmonizing, and squealing kids racing up and down the aisles. (When the Transit Authority overhauled these cars many years later, it was discovered that their original color had been red, but the decades of grime had taken their toll.) After Decoration Day (now Memorial Day), the Coney Island Trolley Line would convert to "open air" cars that had open railings instead of panels and windows on their sides. The cool ocean breezes that greeted the happy riders were the closest thing to air-conditioning.

But the really great rides, of course, were *in* Coney Island. Luna Park offered such rides as the Dodgem cars that careened into each other, propelled by electric trolley poles that sizzled with blue sparks and crackled with each collision, the Ferris Wheel (the colored cars unexpectedly lunged free halfway up, the white cars didn't), and the Shoot the Chute water ride. For the fearless Luna Park had the Cyclone, the Thunderbolt (both roller coasters), and the Loop-the-Loop, with cars that turned its riders over and over in the air.

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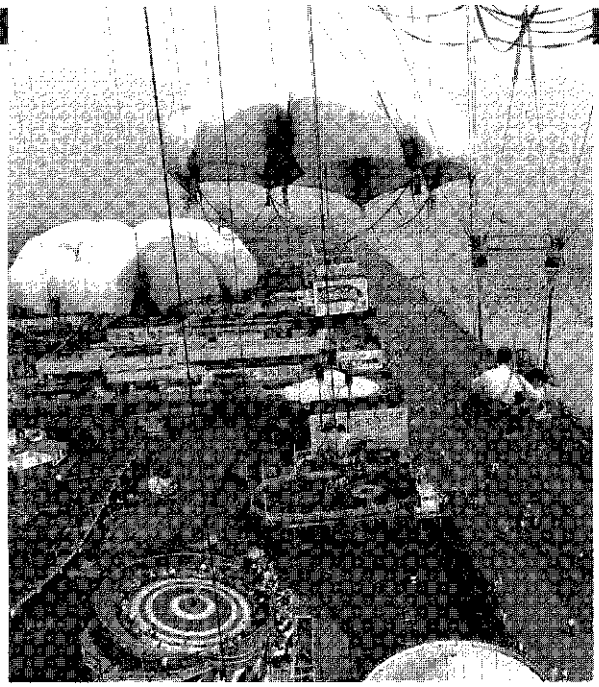

Parachute Jump high above the crowds.

Steeplechase Park had such rides as the earthquake stairs, the rotating barrel, and the iron racehorses, which carried their mounts around the elliptical track surrounding the park that gave it its name. The 250-foot Parachute Jump, a popular attraction at the World's Fair of 1939, was rebuilt in 1941 on the Steeplechase pier and has dominated the Coney skyline ever since. The 25-story-high, mushroom-shaped tower dropped its cable-guided seats in simulated free fall for a few seconds, and then, with a wrenching jolt, the parachutes opened and descended to the ground with their ashen-faced passengers. It made national headlines when the chute of an amiable out-of-town couple jammed while they were dropping. They had to sit there patiently overnight until their rescuers could figure out how to get them down.

Steeplechase, which had a huge funny face of a man over its entrance leering at the throngs below, was very special. A flat fee bought not only a good number of rides but, for pubescent young men, the joys of voyeurism. Strategically placed air jets sent the flimsy summer skirts of shrieking young women billowing up to reveal glimpses of shocking pink unmentionables. Steeplechase outlasted all of its competitors, but it came to a convulsive end in 1965 after a series of devastating fires and financial setbacks. In 1966 it was sold to Fred Trump—Donald's father—for $2.5 million.

During World War II, Coney Island became a hugely popular diversion for soldiers and sailors, as well as our allies. Visiting French servicemen voted "Ile de Conee" among the top three attractions in New York. Home on a brief leave, I found the area somewhat subdued at night. The boardwalk lights were painted black on the sides facing the ocean, and we sat in the darkness peering out at the Atlantic as we munched our beloved franks.

Coney Island peaked as a recreational area just after the war. July 3, 1947, was a record day: 2.6 million people were reported to be at the beach (though these "official" figures were wildly exaggerated). Autos were in short supply, and the subways, too, were carrying record numbers of riders. But soon the GI bill's low mortgages helped the suburbs to mushroom, and President Eisenhower's road-building programs made recreational areas all over the region accessible.

In the early 1950s, the Coney Island Chamber of Commerce and the Coney Island Board of Trade were in dispute about future plans for the area. Some, like Robert Moses, wanted to make the area more residential and cleanse it of its honky-tonk atmosphere. When an assistant district attorney accused a sideshow act called "Tirza, the Wine Bath Girl," of being "lewd and licentious," and tried to have its license revoked, Tirza, a comely blond, appealed for help to the *Brooklyn Daily Eagle*, where I was working as a reporter. My editor asked me to get the facts.

Tirza's act involved a not-very-revealing, languid striptease under a fountain of magenta-colored water. To rig up this contraption, Tirza told me that she had to be accredited as a licensed plumber. She claimed to be the victim of discrimination because the owner of a nearby batting range wanted to force her out so he could expand. A quick check revealed that the assistant DA. was, in fact, the son of the batting range mogul with a somewhat Anglicized name. So Tirza survived that scrape, only to fall victim to changing times, changing tastes, and inept dancing.

One of the best sideshows in Coney Island was free. The Coney Island Magistrate's Court on West Eighth Street opened for business every summer in the 1940s and 1950s to handle the parade of miscreants who violated the local laws or regulations of the amusement parks. Each year, Magistrate Charles E. Ramsgate, relishing the assignment, volunteered to preside. The court docket reflected in microcosm the

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human elements of Coney in the summertime: the droning voice of the court attendant sent a stream of seashore brawlers, gymnasts, peddlers, ballplayers, vagrants, undressers, and peeping toms before the judge, who meted out justice tempered by humor.

A blushing young lady was arrested for undressing at the beach. "Your Honor," she pleaded, "my bathing suit was filled with sand, and I took it off while I was wrapped in a blanket."

"That will cost you five dollars for impersonating an Indian," intoned the judge in mock seriousness.

Almost every day, the judge would be required to deal with the women who vacationed with their families in ramshackle bungalows along Mermaid Avenue and the small alleyways off Surf Avenue. Forced to share kitchen facilities, the matrons were regularly hauled into court when quarrels degenerated into blows.

When a derelict gentleman named Duffy was arrested for sleeping in the Stillwell Avenue subway station, he, apparently a frequent visitor in Magistrate's Court, greeted the judge like an old friend.

"I'm not a vagrant this time," he said proudly, and produced a bankbook with five hundred dollars on deposit and traveler's checks for forty dollars.

"That's just great, Duffy," grinned the judge. "I'm giving you thirty days to count your money."

The human comedy was very much part of the fabric of Coney Island. But by the 1950s the color was beginning to fade. Despite the annual Mardi Gras, baby parades, hot-dog eating contests, and air shows overhead, Coney was slipping inexorably into decline. The new aquarium shored up the east end a bit, but new zoning codes enacted by the city shrunk the amusement area to make way for public- and middle-income housing. By 1965, Coney Island had a population of 100,000 year-round residents. Surf Avenue became the Maginot Line behind which the amusement park, with its back to the ocean, sought to stave off the onslaughts of change.

The concessionaires and the merchants held on to hopes that the 1964-65 World's Fair would bring a new boom to Coney Island. But 1964 was their worst season in 28 years. Two years later, on Memorial Day weekend, a mob of four thousand youngsters—mostly teenagers, some from the nearby housing projects—rampaged through the area, forcing businesses to close down early and lick their wounds. Two hundred cops were brought in to quell the disorder, and twenty mounted police helped scatter the crowd. Later that same summer, the newspapers carried stories about Parks Commissioner Thomas Hoving's struggle to deal with the mounting garbage at the beach, a problem that had been growing for years. The mess after the Fourth of July holiday was so bad that the sanitation department had to be brought in to help.

But three decades have gone by, and Coney Island is still hanging on: the Cyclone rumbles on, the shooting galleries are popping away, and Nathan's is still doing famously. The nickel paradise? That vanished like the Indian on the five-cent piece. ■

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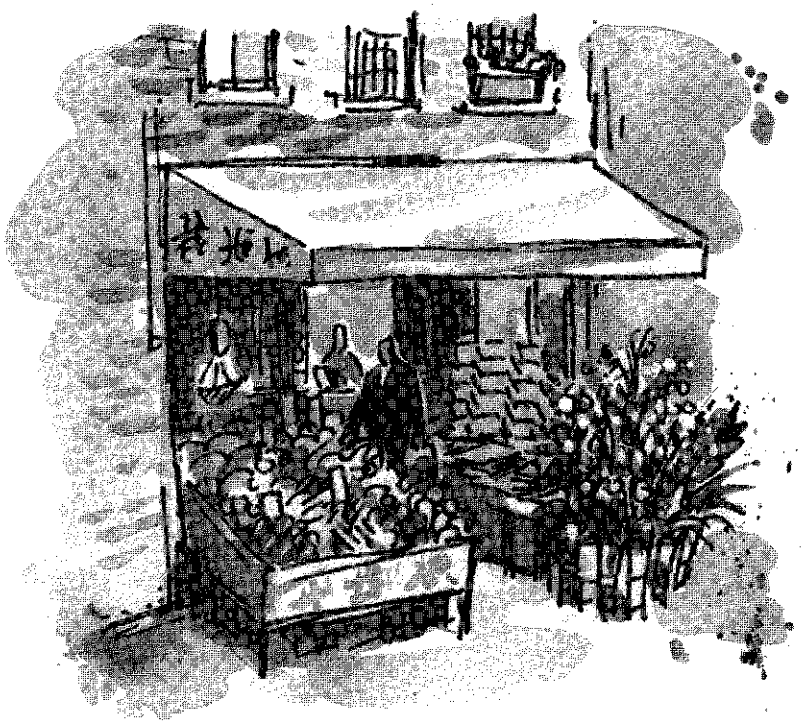
ADAM P. GLICK

The New New Yorkers



Throughout its history, at times when it seemed that New York City was about to become obsolete or worse, immigrants have moved in and revitalized our city beyond expectation. Ironically, the more they contributed, the more resentment they engendered from "native" Americans. But the truth is, unless your first name is "Running," you ain't native, and the fact that you are lucky enough to be here is due to immigrants—be they Dutch, German, Eastern European, Italian, Irish, Middle Eastern, or Asian.

Although today's immigrants are more likely to come from a nation that pays its workers in rice than in wheat, their contribution to our city is as great, if not greater, than that of the Jewish, Irish, or Italian immigrants of one hundred years ago. Who doesn't admire the hardworking Korean families who operate many of the city's fruit and vegetable stands? They provide most New Yorkers with easy access to fresh produce and healthy foods—24 hours a day. And what about the Indian families who operate many of the city's neighborhood newsstands and provide the great majority of our transit system's engineers; or the recent Greek immigrants who own most of our 24-hour diners?

Perhaps the best place to observe the beneficial effect that immigrants have on New York is at our city's hotels. One midtown hotel boasts of employees from thirty different nations: doormen are from Romania, housekeepers from the Caribbean, engineers from the former Soviet Union, controllers from Lebanon, managers from India, and the cooks from Pakistan. All contribute to the services that the hotel offers its clients, but, more importantly, they all contribute to the GNP and to the employment and tax base of the city.

At the same time that immigrants are quietly going about the task of finding employment, most "native" Americans are busy complaining about the inability of the average citizen to find decent entry-level jobs. But somehow our immigrants manage to ferret them out.

Today's immigrants aren't seduced by Vice President Gore's information highway. They don't care what Harvard Business School professors have to say about fax machines, Federal Express, and Japanese management techniques. They are smart enough to realize what most American's don't: that our nation's cities still provide the best opportunity for someone without; an education to get a start in life; and although the job doesn't provide a six-year career path to the presidency, driving a taxicab, cleaning hotel rooms, or delivering Chinese food might just provide the seed capital for a business venture that at a minimum will give their families a better life than the one they left behind.

It is a historical myth that it was the world's "tired and poor huddled masses" who arrived at Ellis Island. Huddled? Yes. Poor? Certainly. But tired? No way. It was the tired whom they left behind.

In the past, New York benefited immeasurably from the world's most energetic citizens. The city's best chance for survival hasn't changed in 350 years. New blood brings new ideas, new jobs, and new benefits to life here. Let their people come. ■

Illustration by David Klug

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